MONTANA
ADMINISTRATIVE
REGISTER

ISSUE NO. 18 – SEPTEMBER 26, 2025

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MONTANA
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DEPARTMENT OF COMMERCE

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-345.1

Summary

Amendment of ARM 8.111.501, 8.111.502, 8.111.503, 8.111.504, 8.111.505, 8.111.506, and 8.111.507 pertaining to the Housing Montana Fund and Montana Housing Trust - Housing Montana Fund; amendment of ARM 8.111.701, 8.111.702, 8.111.703, 8.111.704, 8.111.705, 8.111.706, and 8.111.707 pertaining to the GO Housing: Montana Veterans' Home Loan Act; and amendment of ARM 8.111.801, 8.111.802, 8.111.803, 8.111.804, 8.111.805, 8.111.806, and 8.111.807 pertaining to the Montana Housing Trust - Multifamily Homes Program

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Hearing Date and Time

Wednesday, October 22, 2025, at 10:00 a.m.

Virtual Hearing Information

The Department of Commerce will hold a public hearing via Zoom to consider the proposed amendment of the above-stated rules.

Video: https://mt-gov.zoom.us/j/88196386475?pwd=m6LYPCy4uk065vNezZbx1C140lcey4.1

Webinar ID: 881 9638 6475

Passcode: 760996

Comments

Interested persons may submit data, views, or arguments orally at the Zoom hearing. Written data, views, or arguments may be submitted to Jada Maynor by email:

DOCadministrativerules@mt.gov; or by mail: P.O. Box 200501, Helena, MT 59620. Comments must be received by Friday, October 24, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Wednesday, October 15, 2025, at 5:00 p.m.

Contact

Jada Maynor
(406) 841-2596
jada.maynor@mt.gov

General Reasonable Necessity Statement

The Board of Housing is proposing to update administrative rules for its Housing Montana Fund (HMF), Veterans' Home Loan Program (VHLP), and the Coal Trust Multifamily Homes Program (CTMH). These rule amendments are necessary to implement House Bill 924 passed by the 2025 Legislature and signed into law by Governor Gianforte. HB 924 moves the VHLP and CTMH program from the Coal Trust Tax Fund, administered by the Board of Investments, to a new Montana Housing Trust within the Montana Growth and Opportunity Trust at the Department of Revenue. The administrative rule subchapters for these two programs must be amended to remove obsolete terms, such as the CTMH interest rate tied to the Coal Trust Tax Fund average performance yield. Finally, HB 924 references the board's existing Housing Montana Fund, which was established by the state legislature in 1999 and is maintained at and administered by the board using the board's resources. The bill does not direct any transfer of the existing HMF program funds or loans to the Department of Revenue but rather establishes a new HMF going forward. To implement HB 924, the board is proposing to leverage and amend existing administrative rules for the HMF and to make those same rules applicable to the new Montana Housing Trust – Housing Montana Fund.

Rulemaking Actions

AMEND

The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

8.111.501 PURPOSE OF REGULATIONS

(1) ~~These rules are enacted by the board to provide explanation and guidance for loans from the housing Montana fund loan account authorized by 90-6-133(2) and 90-6-134, MCA, pursuant to the criteria and procedures described in ARM 8.111.503 through 8.111.507.~~ These rules are adopted by the board to provide explanation and guidance for loans from the Housing Montana Fund loan account authorized by Title 90, chapter 6, part 1, MCA.

(2) These rules implement the requirements of the Montana Housing Trust within the Montana Growth and Opportunity Trust, authorized by [Sections 1 and 26, Chapter 775, Laws of 2025].

Authorizing statute(s): 90-6-136, MCA

Implementing statute(s): 90-6-134, MCA

8.111.502 DEFINITIONS

When used in these rules, unless the context clearly requires a different meaning:

(1) "Application" means the board loan application ~~Montana Board of Housing Loan Process~~ made available ~~published~~ by the board, details ~~a copy~~ of which may be obtained by contacting the board by mail at P.O. Box 200528, Helena, Montana 59620-0528, by telephone at (406) 841-2840, or at the board's website, www.commerce.mt.gov/housing. ~~web site www.housing.mt.gov.~~

(2) "Board" means the ~~Montana~~ Board of Housing created by 2-15-1814, MCA.

~~(3)~~(6) "Median income" means median income as determined by the U.S. Department of Housing and Urban Development, with adjustments for smaller or larger families.

(3) "GO Housing" means the Montana Housing Trust in the GO Trust established by [Section 26, Chapter 775, Laws 2025].

(4) "GO Trust" means the Montana Growth and Opportunity Trust established as a permanent fund by [Section 1, Chapter 775, Laws of 225], and funded by annual transfer of volatile revenue as provided for in [Section 5, Chapter 775, Laws of 2025].

~~(4) "HMF loan" means a loan made from the housing Montana fund loan account authorized by 90-6-133(2)(a) and 90-6-134, MCA, and described in ARM 8.111.503 through 8.111.507.~~

(5) "HMF loan" means a loan made from the Housing Montana Fund loan account authorized by Title 90, chapter 6, part 1, MCA, and described in ARM 8.111.503 through 8.111.507.

~~(5)~~(8) "Rural area" means any area within the state that is not within the city limits of Billings, Bozeman, Butte, Great Falls, Helena, Kalispell, ~~or~~ Missoula, or any municipality that as of the date of application has a population greater than any of the seven listed herein.

~~(6)~~(9) "Small municipality ~~city or town~~" means any municipality ~~city or town~~ within the state that is not within the city limits of Billings, Bozeman, Butte, Great Falls, Helena, Kalispell, ~~or~~ Missoula, or any municipality that as of the date of application has a population greater than any of the seven listed herein.

(7) "MHT-HMF loan" means a loan made from GO Housing authorized by [Section 26, Chapter 775, Laws of 2025], and described in ARM 8.111.503 through 8.111.507.

Authorizing statute(s): 90-6-136, MCA

Implementing statute(s): 90-6-133, 90-6-134, MCA

8.111.503 HMF AND MHT-HMF LOAN ELIGIBLE LOAN ACTIVITIES

(1) The board may make a~~n~~ HMF or MHT-HMF loan for the following purposes:

(a) matching funds for public or private funds available from other sources for the development of housing for low-income or moderate income households;

(b) bridge financing necessary to make development of housing for low-income or moderate income households feasible;

(c) acquisition of existing housing stock for the purpose of preservation of or conversion to housing for low-income or moderate income households;

(d) preconstruction technical assistance as described in 90-6-134(4), MCA, for housing for low-income and moderate income households in rural areas and small municipalities ~~cities and towns~~;

(e) acquisition of land for housing developments, land banking, and land trusts; and

(f) short-term, site-based housing vouchers for needy individuals.

(2) A~~n~~ HMF or MHT-HMF loan may not be made that will replace existing or available funding for eligible activities.

(3) Both HMF loans and MHT-HMF loans are subject to the requirements in 90-6-133(1)(b), MCA, that 20% of money allocated to HMF and the MHT-HMF must be disbursed to rural areas.

Authorizing statute(s): 90-6-136, MCA

Implementing statute(s): 90-6-133, 90-6-134, MCA

8.111.504 HMF AND MHT-HMF LOAN APPLICANT ELIGIBILITY

(1) Organizations eligible for HMF or MHT-HMF loans are agencies or programs of state government, local governments, tribal governments, local housing authorities, nonprofit community or neighborhood based organizations, regional or statewide nonprofit housing assistance organizations, and for-profit housing developers.

(2) The applicant, including the development team, must document to the satisfaction of the board, experience and/or expertise in the development or management of housing for low and/or moderate income households. Criteria considered by the board includes, but are not limited to:

(a) number of years experience and/or expertise in development or management of housing for low and/or moderate income households;

(b) number of housing developments and units developed or managed;

(c) involvement in other low and moderate income housing programs of the board, federal agencies and tribal and local governments; and

(d) successful completion of other housing development projects.

Authorizing statute(s): 90-6-136, MCA

Implementing statute(s): 90-6-134, MCA

8.111.505 HMF AND MHT-HMF LOAN APPLICATION PROCEDURES

(1) An application must be submitted using the board's ~~uniform~~ approved application ~~and~~ process.~~loan supplement.~~

(2) At the time the application is submitted, an applicant must also submit:

(a) a description of the efforts made by the applicant to coordinate the loan with other housing assistance programs administered by the board or any other governmental or nongovernmental entity;~~, the federal government, state agencies, tribal government, local public housing authorities, and local governments;~~

(b) an explanation of how the loan will not replace existing or available funding for the project, including: ~~a detailed description of the public benefit obtained from program funding, including construction phase funding, if applicable, compared to funding from other existing and available funding sources with substantially similar terms and conditions; and~~

(i) a detailed description of the public benefit obtained from program funding; and

(ii) construction phase funding, if applicable, compared to funding from other existing and available funding sources with substantially similar terms and conditions; and

(c) a description of the priority the lien of the board will have in relationship with the liens of other lenders on the project.

(3) Applications for use of funds under ARM 8.111.503(1)(d) and (f) must include a detailed narrative of the applicant's efforts to obtain funding from other source(s) and the outcomes of such efforts. ~~Applications that are substantially incomplete will not be processed but will be returned to the applicant.~~

(4) Applications that are substantially incomplete will not be processed but will be returned to the applicant.

~~(4)~~(5) Applicants must demonstrate project development progress through submission of quarterly progress reports from the ~~time of~~ preliminary loan application approval through loan closing. Quarterly progress reports must be submitted in accordance with the requirements of and using the quarterly report form for the board's ~~H~~housing ~~C~~credit program. Details ~~Copies~~ of the housing credit quarterly report process ~~form~~ and requirements may be obtained by contacting the board by mail at P.O. Box 200528, Helena, Montana 59620-0528, by telephone at (406) 841-2840, or at the board's website, www.commerce.mt.gov/housing. ~~web site www.housing.mt.gov.~~

Authorizing statute(s): 90-6-136, MCA

Implementing statute(s): 90-6-134, MCA

8.111.506 HMF AND MHT-HMF LOAN TERMS AND CONDITIONS

(1) A~~n~~ HMF or MHT-HMF loan made pursuant to ARM 8.111.503(1)(a) and (c) shall:

(a) provide for complete amortization at maturity through substantially equal monthly payments of principal and interest;

(b) have an amortization period not to exceed 40 years and a term not to exceed 30 years~~, both~~ as approved by the board based on ~~upon~~ the loan amount, other ~~additional project~~ funding sources and obligations, and other relevant factors; and

(c) bear interest at an annual rate as approved by the board.~~:~~

~~(i) not less than 2% for a project that is for households of 30% or less of median income in the area;~~

~~(ii) not less than 3% for a project that is for households between 31% and 50% of median income in the area;~~

~~(iii) not less than 4% for a project that is for households between 51% and 80% of median income in the area;~~

~~(iv) not less than 6% for a project that is for households between 81% and 95% of median income in the area; and~~

~~(v) a rate blended from those rates provided for in (1)(c)(i), (ii), (iii), and (iv) for a project that contains units for different area median income household groups.~~

~~(d) be subject to a late charge of 4% of the monthly payment due for each monthly payment that is not made within 15 days of its due date; and~~

~~(e) be secured by a lien (perfected either by a mortgage or a trust indenture) against the real property benefited by the loan.~~

~~(2) As a condition of the loan, the project owner must commit to income targeting and maximum rent requirements and restrictions and related transfer, compliance, and enforcement restrictions, through execution and recording of a regulatory agreement establishing such provisions as covenants running with the project property for the longer of thirty years or the duration of the loan obligation. The board may waive such requirement if the project is subject to a substantially similar agreement in favor of the board under the Housing Credit or another board loan program.~~

(2) A HMF and MHT-HMF loan made pursuant to ARM 8.111.503(1)(b) and (e) shall:

(a) have a short term loan;

(b) have affordability restrictions, limitations on resale for use other than as low or moderate income affordable housing, and provide for recapture of the interest savings an applicant received by borrowing from the program rather than at market rates;

(c) bear interest at an annual rate as approved by the board that reflects the short term; and

(d) comply with loan-to-value and other required loan provisions as approved by the board.

~~(3) The board may approve HMF loans:~~

~~(a) to provide permanent financing, with loan closing and disbursement occurring after completion of construction and three months of stabilized occupancy; or~~

~~(b) on a case-by-case basis, to provide financing prior to completion of construction, where the applicant demonstrates and the board finds additional public benefit from such financing compared to funding from other existing and available funding sources with substantially similar terms and conditions, such as but not limited to allowing project financial feasibility or providing for an increased number of affordable housing units. As a condition of approving such pre-construction financing, the board may require additional security, risk management measures, and other loan terms, including but not limited to additional collateral and third-party construction and disbursement monitoring obtained or provided and paid for by the borrower, investor, or other lender.~~

(3) A HMF or MHT-HMF loan made pursuant to ARM 8.111.503(1)(d) and (f) shall be subject to terms and conditions, as approved by the board, which shall ensure a reasonable likelihood of repayment.

(4) As a condition of the loan made pursuant to ARM 8.111.503(1)(b) or (e), the property owner must execute and record a land use restriction agreement or similar covenant running with the land that includes the following:

(a) at least 75% of the project units or lots must be targeted to residents at or below 95% of area median income;

(b) maximum rent requirements and restrictions;

(c) related transfer, compliance, and enforcement restrictions; and

(d) a term of the longer of thirty years or the duration of the loan obligation.

(5) A HMF or MHT-HMF loan must:

(a) be subject to a late fee of 4% of the monthly payment due for each monthly payment that is not made within 15 days of its due date; and

(b) be secured by a lien perfected either by a mortgage or a trust indenture against the real property benefited by the loan.

(6) The board may approve HMF or MHT-HMF loans:

(a) to provide permanent financing, with loan closing and disbursement occurring after completion of construction and three months of stabilized occupancy;

(b) to provide financing prior to completion of construction, when the board determines additional public benefit such as but not limited to the following:

(i) allowing project financial feasibility;

(ii) facilitating bridge financing during the construction phase; or

(iii) providing an increased number of affordable housing units.

(7) As a condition of approving pre-construction or bridge financing, the board may require additional security, risk management measures, and other loan terms. Examples of such conditions include additional collateral, third-party construction, and disbursement monitoring obtained or provided and paid for by the borrower, investor, or other lender.

Authorizing statute(s): 90-6-136, MCA

Implementing statute(s): 90-6-133, 90-6-134, MCA

8.111.507 CRITERIA FOR APPROVAL OF HMF OR MHT-HMF LOAN

(1) The board will review the following criteria ~~in~~ when considering an application for a~~n~~ HMF or MHT-HMF loan:

(a) the applicant's experience in managing or developing housing for low and/or moderate income households;

(b) the percentage of the units in the project that will be available for low and/or moderate income households;

(c) the need for low and moderate income housing in the community where the project is ~~to be~~ located; ~~and~~

(d) the priority of ~~to be given~~ the board's proposed lien for the HMF or MHT-HMF loan in relation to the amount of the HMF or MHT-HMF loan ~~and the priority given the liens and the amount of the loans of the other lenders on the project.~~; and

(e) the priority of the liens and the amount of the loans of the other lenders on the project.

Authorizing statute(s): 90-6-136, MCA

Implementing statute(s): 90-6-134, MCA

8.111.701 PURPOSE AND OBJECTIVE

(1) These rules are adopted ~~to implement the~~ by the board to provide explanation and guidance for the Veterans' Home Loan Program, authorized by the Montana Veterans' Home Loan Act, Title 90, chapter 6, part 6, ~~sections 1 through 6,~~ MCA. ~~These rules provide explanation and guidance to loan applicants and participating lenders and servicers.~~

(2) These rules are further adopted by the board to implement the Montana Housing Trust within the Montana Growth and Opportunity Trust, authorized by [Sections 1 and 26, Chapter 775, Laws of 2025]. These rules provide explanation and guidance to loan applicants, participating lenders, and servicers.

Authorizing statute(s): 90-6-104, 90-6-106, MCA

Implementing statute(s): 90-6-104, 90-6-106, MCA

8.111.702 DEFINITIONS

The definitions contained in ARM 8.111.502 are incorporated and apply to the rules in this subchapter. As used in this subchapter, ~~these rules,~~ the following terms ~~words and phrases~~ have the following meanings:

(1) "Act" means the Montana Veterans' Home Loan Act, Title 90, chapter 6, part 6, ~~sections 1 through 6,~~ MCA.

~~(2) "Board" means the Montana Board of Housing established under 2-15-1814, MCA.~~

~~(3)~~(2) "Deceased eligible veteran" means an eligible veteran who was killed in the line of duty while in military service.

~~(4)~~(3) "Eligible veteran" means an individual who is in military service or has been in military service and was discharged under honorable conditions.

~~(5)~~(4) "First time home buyer" means an individual who has not previously owned an interest in real property occupied by the individual as their primary residence. An applicant must provide proof of first time home buyer status satisfactory to the board.

~~(6)~~(5) "Guide" means the board's Mortgage Purchase and Servicing Guide referenced in ARM 8.111.305 and made available on the board's website at www.commerce.mt.gov/housing.

~~(7)~~(6) "Honorable conditions" means a discharge or separation from service characterized by the applicable military authority as under honorable conditions. The term includes honorable discharge and general discharge, but does not include a dishonorable discharge or other administrative discharge characterized by military regulation as other than honorable.

(7) "Military service" means:

(a) membership in the Montana National Guard;

(b) membership in the federal reserve forces of the armed forces of the United States pursuant to Title 10 of the U.S. Code; or

(c) service on federal active duty pursuant to Title 10 of the U.S. Code.

(8) "Montana resident ~~Resident~~" means an individual who has established and maintains a permanent place of abode within the state of Montana and has not established residence elsewhere although the individual may be temporarily absent from the state. An applicant must provide proof of Montana residence satisfactory to the board.

~~(9)~~(10) "VHLP ~~Program~~" means the Montana Veterans' Home Loan Program established by the Act and administered by the board pursuant to these rules.

~~(10)~~(9) "Property" means the residential real property purchased or to be purchased with a VHLP ~~veteran's~~ loan.

~~(11) "Military Service" means:~~

~~(a) Membership in the Montana National Guard;~~

~~(b) Membership in the federal reserve forces of the armed forces of the United States pursuant to Title 10 of the U.S. Code; or~~

~~(c) Service on federal active duty pursuant to Title 10 of the U.S. Code.~~

~~(12)~~(11) "VHLP ~~Veteran's~~ loan" means a mortgage loan funded from money allocated to GO Housing and made pursuant to the Act and these rules.

Authorizing statute(s): 90-6-104, 90-6-106, MCA

Implementing statute(s): 90-6-104, 90-6-106, MCA

8.111.703 APPLICANT ELIGIBILITY REQUIREMENTS

(1) To qualify for a VHLP ~~veteran's~~ loan, an applicant must:

(a) be a Montana resident;

(b) be an eligible veteran or a deceased eligible veteran's surviving spouse who is not and has not remarried since the death of the deceased eligible veteran;

(c) be a first time home buyer; and

(d) have successfully completed a homebuyer education class approved by the board.

(2) There is no income limit for ~~veteran's~~ VHLP loan eligibility.

Authorizing statute(s): 90-6-104, 90-6-106, MCA

Implementing statute(s): 90-6-104, 90-6-106, MCA

8.111.704 APPLICATION PROCEDURES

(1) Application for a VHLP ~~veteran's~~ loan must be made using the same process established by the board for regular bond program loans, as specified in the guide.

(2) In addition to other documents required by the guide, the application materials submitted to the participating lender must include:

(a) a completed application on an application form approved by the board; and

(b) satisfactory proof of eligibility under ARM 8.111.703.

(3) Additional information and forms for the program may be obtained by contacting the board by mail at P.O. Box 200528, Helena, Montana 59620-0528, by telephone at (406) 841-2840, or at the board's website at www.commerce.mt.gov/housing. ~~web sitewww.housing.mt.gov.~~ Such additional information and forms include but are limited to requirements for satisfactory proof of eligibility, requirements for satisfactory proof of Montana residence and first-time home buyer status, board-approved homebuyer education classes, participating lender information, lender

reservation and purchase forms, current statewide allowable purchase price, and current program interest rates.

Authorizing statute(s): 90-6-104, 90-6-106, MCA

Implementing statute(s): 90-6-104, 90-6-106, MCA

8.111.705 LENDER AND SERVICER REQUIREMENTS AND LIMITS

(1) The program will be governed by and subject to the Act and the ~~these~~ rules in this subchapter.

(2) VHLP ~~Veteran's~~ loans shall be originated and serviced using the processes established for the board's regular bond program loans, as specified in the guide, subject to the following:

(a) where the provisions of the guide are inconsistent with the Act or the rules in this subchapter, ~~these rules,~~ the provisions of the Act or these rules shall govern;

(b) terms defined in the Act or this subchapter ~~these rules~~ shall have the meaning provided in the Act or this subchapter ~~these rules~~ where used in the guide; and

(c) the sections of the guide pertaining to requirements of the Internal Revenue Service and the bond indentures, as more specifically identified in the guide, shall not apply for purposes of the VHLP ~~veteran's loan program~~.

(3) To participate as a lender under the VHLP, ~~veteran's loan program,~~ a lender must be a board-approved participating lender under the requirements of ARM 8.111.305. The lender must comply with the applicable provisions of the guide.

(4) A single lender may reserve or originate no more than ten VHLP ~~veteran's l~~oans until at least a total of $8 million ~~$10 million~~ in loans has been originated by all lenders under the VHLP ~~veteran's loan program~~. The board may waive the ten-loan limit where necessary to provide an opportunity for an eligible applicant to obtain a loan where the loan is not otherwise available to the applicant from another participating lender. Once a total of $8 million ~~$10 million~~ in loans has been originated by all lenders under the VHLP, ~~veteran's loan program,~~ the ten-loan limit shall no longer apply to any lender.

(5) VHLP ~~Veteran's~~ loans will be serviced by the board or its designee. Servicing fees shall be as set by the board and posted in the program terms and conditions and on

the board's website. A servicing release premium will be paid by the board to the lender.

(6) Lenders must provide the board and the legislative auditor access to all records and documents related to VHLP ~~veteran's program~~ loans.

Authorizing statute(s): 90-6-104, 90-6-106, MCA

Implementing statute(s): 90-6-104, 90-6-106, MCA

8.111.706 QUALIFYING PROPERTY

(1) The property to be purchased with a VHLP ~~veteran's~~ loan must be:

(a) located in the state of Montana; and

(b) ~~actually~~ occupied by the borrower as the borrower's primary residence.~~;~~

~~(c) if manufactured housing, de-titled and fixed to a permanent foundation.~~

(2) Depending on the type of property, the following conditions must be met:

(a) if manufacturing housing, the property must be a two-section or larger, de-titled and fixed to a permanent foundation. The board may approve exceptions on a case-by-case basis considering factors such as the appraisal, property conditions, and insurability of the home;

(b) if a condominium, the property must meet mortgage purchase approval guidelines and hazard insurance requirements contained in the guide and as further defined in the MBOH MBS Regular Bond Loan Programs general terms and conditions. The guide and terms and conditions are available on the board's website at www.commerce.mt.gov/housing; and

(c) if the property is on a community land trust, the mortgage insurer must approve the property for the loan.

Authorizing statute(s): 90-6-104, 90-6-106, MCA

Implementing statute(s): 90-6-104, 90-6-106, MCA

8.111.707 LOAN TERMS AND CONDITIONS

(1) The amount of a loan may not exceed 95% of the value of the statewide allowable purchase price determined by the board.

(2) The borrower must contribute a minimum of $2,500 of the borrower's own funds toward the down payment for the purchase of the property or the closing costs of the loan, with no cash back to the borrower at closing.

(3) The lender may charge and collect lender fees not exceeding the amount allowable under the board's regular bond program. No points may be charged. Except as permitted by law, all fees must be paid by the borrower or seller and will not be paid or financed by the board. Where permitted by law, a borrower may use the minimum contribution to pay closing costs and may borrow the maximum loan amount allowed by the mortgage insurer for the loan.

(4) Loans must meet FHA, VA, ~~RD,~~ or HUD 184 underwriting standards as specified by the board and must be guaranteed by FHA, VA, ~~RD,~~ or HUD 184. Loans guaranteed by VA must have full guarantee only with no prior entitlements used and not restored.

(5) Loans will be 30-year, fixed rate loans.

(6) Loan interest rates will be one percent below ~~the lower of the Federal National Mortgage Association's 60-day delivery rate or~~ the board's regular bond home loan mortgage program. The interest rate will be posted on the board's website ~~web site~~ and updated periodically. ~~every two weeks.~~

(7) Loans must be documented with a standard promissory note used by FHA, Fannie Mae, or Freddie Mac; secured by a first priority trust indenture under the Montana Small Tract Financing Act, Title 71, chapter 1, part 3, MCA; and covered by a lender's policy of title insurance.

(8) The loan agreement must provide that taxes and insurance payments will be escrowed, including hazard and mortgage insurance. Hazard insurance must meet the standards specified in the guide and the terms and conditions specified in the lender's contract with the board.

(9) The loan documents shall provide that, in the event the borrower ceases to occupy the property as the borrower's primary residence, the loan interest rate shall increase by one percent per annum six months after such event and, at the option of the board, the entire loan indebtedness shall become immediately due and payable 12 months after such event.

(a) The board or its designee may require the borrower to periodically verify continued occupancy of the property as a primary residence, and failure to comply with such verification requests shall constitute a default under the loan, except for good cause shown.

(b) Upon written request of the borrower, the board in its sole discretion may extend or decline to extend the 12-month repayment period based upon the borrower's inability to sell the property despite good faith efforts, considering the following factors:

(i) prompt and continuing listing of the property for sale;

(ii) reasonableness of the listing price and other offering terms;

(iii) any offers the borrower has received and refused;

(iv) market conditions;

(v) preservation of the loan collateral; and

(vi) any other factors deemed relevant by the board.

Authorizing statute(s): 90-6-104, 90-6-106, MCA

Implementing statute(s): 90-6-104, 90-6-106, MCA

8.111.801 PURPOSE OF REGULATIONS

(1) These rules are adopted ~~enacted~~ by the board to provide explanation and guidance for loans from the Montana Housing ~~coal~~ Trust within the Montana Growth and Opportunity Trust ~~account~~ authorized by [Section 26, Chapter 775, Laws of 2025], ~~17-6-308(6), MCA,~~ and Title 90, chapter 6, part 1, MCA, pursuant to the criteria and procedures described in ARM 8.111.801 through 8.111.807.

Authorizing statute(s): 90-6-137, MCA; [Ch. 775, Sec. 26, L. 2025]

Implementing statute(s): 90-6-137, MCA; [Ch. 775, Sec. 26, L. 2025]

8.111.802 DEFINITIONS

The definitions contained in ARM 8.111.502 are incorporated and apply to the rules in this subchapter. When used in this subchapter, the following terms have the following meanings: ~~When used in these rules, unless the context clearly requires a different meaning:~~

~~(1) "Application" means the Montana Board of Housing Loan Process made available published by the board, a copy of which may be obtained by contacting the board~~

~~by mail at P.O. Box 200528, Helena, Montana 59620-0528, by telephone at (406) 841-2840, or at the board's web site www.housing.mt.gov.~~

~~(2) "Board" means the Montana Board of Housing created by 2-15-1814, MCA.~~

~~(3) "CTMH" means the Coal Trust Multifamily Homes program authorized by 17-6-308(6), MCA, and Title 90, chapter 6, part 1, MCA~~

~~(4)~~(1) "Low-income" means households whose incomes do not exceed 80% of the median income in the area as determined by the U.S. Department of Housing and Urban Development with adjustments for smaller and larger families.

(2) "MHT-MFHP" means the Montana Housing Trust – Multifamily Homes program authorized by [Section 26, Chapter 775, Laws of 2025], and Title 90, chapter 6, part 1, MCA.

~~(5)~~(3) "Moderate-income" means households whose incomes are between 81% and 95% of the median income for the area as determined by the U.S. Department of Housing and Urban Development with adjustments for smaller and larger families.

~~(6)~~(4) "Multifamily rental housing project" means a project that is two or more rental units.

~~(7)~~(5) "Total development cost" means all costs shown in the application on the Uses of Funds. ~~line "Total Projects Costs without Grant Admin." Total project cost does not include grant administration costs.~~

Authorizing statute(s): 90-6-136, MCA

Implementing statute(s): 17-6-308, 90-6-137, MCA

8.111.803 MHT-MFHP ~~CTMH~~ LOAN ELIGIBLE LOAN ACTIVITIES

(1) The board may make a MHT-MFHP ~~CTMH~~ loan for the development and preservation of multifamily rental housing projects that provide housing for low-income or moderate-income households and for the following purposes:

(a) development and construction of multifamily rental housing projects;

(b) acquisition and/or rehabilitation of existing multifamily rental housing projects for the purpose of preservation of or conversion to housing for low-income or moderate-income households;

(c) acquisition of land for multifamily rental housing projects including land trusts and for mobile or manufactured homes;

(d) development or preservation of mobile home parks as defined in 70-33-103, MCA; or

(e) other purposes authorized in 90-6-137, MCA, which the board determines are consistent with MHT-MFHP ~~CTMH~~ loan program objectives, requirements, and which provide sufficient assurances of repayment of GO Housing ~~coal trust~~ funds.

(2) A MHT-MFHP ~~CTMH~~ loan may not be used to replace existing or available sources of funding for eligible loan activities.

(3) Projects funded with a MHT-MFHP ~~CTMH~~ loan must be subject to property taxes, except those projects located on tribal lands.

Authorizing statute(s): 90-6-136, MCA

Implementing statute(s): 17-6-308, 90-6-137, MCA

8.111.804 MHT-MFHP ~~CTMH~~ LOAN APPLICANT ELIGIBILITY

(1) Organizations eligible for MHT-MFHP ~~CTMH~~ loans are agencies or programs of state government, local governments, tribal governments, local housing authorities, nonprofit community or neighborhood based organizations, regional or statewide nonprofit housing assistance organizations, and for-profit housing developers.

Authorizing statute(s): 90-6-136, MCA

Implementing statute(s): 17-6-308, 90-6-137, MCA

8.111.805 MHT-MFHP ~~CTMH~~ LOAN APPLICATION PROCEDURES

(1) An application must be submitted.

(2) At the time the application is submitted, an applicant must also submit:

(a) a description of the efforts made by the applicant to coordinate the loan with other housing assistance programs administered by the board, the federal government, state agencies, tribal government, local public housing authorities, local governments, and private entities;

(b) an explanation of how the loan will not replace existing or available funding for the project~~;, including a detailed description of the public benefit obtained from program funding, including construction phase funding, if applicable, compared to funding from other existing and available funding sources with substantially similar terms and conditions; and~~

(c) ~~for mobile home park projects, documentation of lot rents for comparable mobile home parks in the market area and an explanation demonstrating that proposed lot rents will be reasonable and affordable for prospective residents.~~ a detailed description of the public benefit obtained from program funding;

(d) when applicable, construction phase funding compared to funding from other existing and available funding sources with substantially similar terms and conditions; and

(e) for mobile home park projects, documentation of lot rents for comparable mobile home parks in the market area and an explanation demonstrating that proposed lot rents will be reasonable and affordable for prospective residents.

(3) Applications that are substantially incomplete ~~as determined by the board staff~~ will not be processed but will be returned to the applicant.

(4) Applicants must demonstrate project development progress through submission of quarterly progress reports from the time of preliminary loan application approval through loan closing. Quarterly progress reports must be submitted in accordance with the requirements of and using the quarterly report form for the board's housing credit ~~Housing Credit~~ program. ~~Copies~~ Details of the housing credit quarterly report process ~~form~~ and requirements may be obtained by contacting the board by mail at P.O. Box 200528, Helena, Montana 59620-0528, by telephone at (406) 841-2840, or at the board's website, www.commerce.mt.gov/housing. ~~web site www.housing.mt.gov.~~

Authorizing statute(s): 90-6-136, MCA

Implementing statute(s): 17-6-308, 90-6-137, MCA

8.111.806 MHT-MFHP ~~CTMH~~ LOAN TERMS AND CONDITIONS

(1) A MHT-MFHP ~~CTMH~~ loan shall:

(a) provide for complete amortization at maturity through substantially equal monthly payments of principal and interest;

(b) have an amortization period not to exceed 40 years and a term not to exceed 30 years, both as approved by the board based upon the loan amount, additional project funding sources and obligations, and other relevant factors;

(c) be subject to a late charge of 4% of the monthly payment due for each monthly payment that is not made within 15 days of its due date;

(d) be secured by a first priority mortgage or trust indenture on the project property; and

(e) not exceed 95% of total development cost.

(2) The board and the MHT-MFHP ~~CTMH~~ loan recipient must each pay half of the loan servicing fees as determined by the board.

(3) A MHT-MFHP ~~CTMH~~ loan shall bear interest at an annual rate as approved by the board. ~~equal to .0625% plus the Average Coal Trust Investment Performance rate effective as of preliminary loan application submission, or at the Average Coal Trust Investment Performance rate effective within 30 days before loan closing, if such later effective rate is at least 1/8 of a percent lower than the rate effective at preliminary loan application submission. For purposes of this rule, the Average Coal Trust Investment Performance rate is such rate determined by the Board of Investments and posted on its website at https://investmentmt.com/_shared/LoanPrograms/Rates/In-State-Rate-Sheet-MCHP.pdf.~~

(4) At least 75% of the project units or lots must be targeted to residents at or below 95% of area median income.

(5) Maximum rents must apply to project units or lots.

(a) For projects consisting of mobile home parks, land trusts, or land for mobile or manufactured homes, maximum rents must be reasonable and affordable to prospective residents, as determined by the board based upon the documentation and explanation submitted by the applicant and other relevant information obtained by the board.

(b) For other projects, maximum rents will be calculated according to income targeting standards applicable to the housing credit ~~Housing Credit~~ program. Details ~~Copies~~ of the income targeting standards for the housing credit ~~Housing Credit~~ program may be obtained by contacting the board by mail at P.O. Box 200528, Helena, Montana 59620-0528, by telephone at (406) 841-2840, or at the board's website, www.commerce.mt.gov/housing. ~~web site www.housing.mt.gov.~~

(c) As a condition of the loan, the project owner must commit to the income targeting and maximum rent requirements and restrictions in accordance with (3) and (4), and related transfer, compliance and enforcement

restrictions, through execution and recording of a regulatory agreement establishing such provisions as covenants running with the project property for the longer of thirty years or the duration of the loan obligation. The board may waive such requirement if the project is subject to a substantially similar agreement in favor of the board under ~~the Housing Credit or~~ another board loan program.

(6) The board may approve MHT-MFHP ~~CTMH~~ loans:

(a) to provide permanent financing, with loan closing and disbursement occurring after completion of construction and three months of stabilized occupancy; or

(b) on a case-by-case basis, to provide financing prior to completion of construction, where the applicant demonstrates and the board finds additional public benefit from such financing compared to funding from other existing and available funding sources with substantially similar terms and conditions~~,~~. Public benefits may include ~~such as but not limited to allowing~~ project financial feasibility or providing for an increased number of affordable housing units. As a condition of approving such pre-construction financing, the board may require additional security, risk management measures, and other loan terms~~,~~. These additional terms may include ~~including but not limited to~~ additional collateral and third-party construction and disbursement monitoring obtained or provided and paid for by the borrower, investor, or other lender.

Authorizing statute(s): 90-6-136, MCA

Implementing statute(s): 17-6-308, 90-6-137, MCA

8.111.807 CRITERIA FOR APPROVAL OF MHT-MFHP ~~CTMH~~ LOAN

(1) The board will review the following criteria when ~~in~~ considering an application for a~~n~~ MHT-MFHP ~~CTMH~~ loan:

(a) the applicant's experience in managing or developing housing for low-income and/or moderate-income households;

(b) the percentage of the units in the project that will be available for low-income or moderate-income households;

(c) the need for low-income and moderate-income housing in the community where the project is to be located;

(d) project location;

(e) the loan size and whether it maximizes the geographical distribution of the loan program; and

(f) the use of other funds to leverage the use of MHT-MFHP ~~CTMH~~ funds.

Authorizing statute(s): 90-6-137, MCA

Implementing statute(s): 90-6-137, MCA

Small Business Impact

The board proposes to adopt rules that impact eligible applicants for its Housing Montana Fund, Veterans' Home Loan Program, and the Coal Trust Multifamily Homes Program. The HMF and CTMH programs provide financing in the form of a loan for the development, acquisition, rehabilitation, and/or preservation of low- and moderate-income housing. Eligible applicants for HMF and CTMH include "agencies or programs of state government, local governments, tribal governments, local housing authorities, nonprofit community or neighborhood-based organizations, regional or statewide nonprofit housing assistance organizations, and for-profit housing developers." For the VHLP, eligible applicants are Montana veterans and Montana National Guard members, but the board works with approved participating lenders to originate these loans, which are then purchased and serviced by the board.

Some of the eligible applicants for HMF and CTMH may qualify as small businesses. Specifically, some for-profit housing developers and nonprofit community organizations may qualify as a small business and would be a class or group impacted by these proposed rules. Additionally, participating lenders who partner with the board to originate VHLP loans may qualify as a small business.

The impact on for-profit and nonprofit housing developer applicants includes new opportunities to apply for favorable financing to support low- and moderate-income housing development. The impact on small business lenders under these rules would include new opportunities to provide financing to support low- and moderate-income housing development.

The proposed rulemaking will not increase or decrease a monetary amount that a person shall pay or will receive.

Bill Sponsor Notification

The department notified House Bill 924 sponsor, Llew Jones, on August 29, 2025, regarding the proposed administrative rules. Representative Jones did not provide any comments.

Interested Persons

The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Written requests may be mailed or delivered to the contact person above or may be made by completing a request form at any rules hearing held by the department.

Rule Reviewer

Amy Barnes

Approval

Mandy Rambo, Deputy Director

MONTANA
ADMINISTRATIVE
REGISTER

BOARD OF FUNERAL SERVICE
DEPARTMENT OF LABOR AND INDUSTRY

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-267.1

Summary

Implementation of House Bill 246 pertaining to substantial equivalency

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Hearing Date and Time

Monday, October 20, 2025, at 10:00 a.m.

Virtual Hearing Information

A public hearing will be held via remote conferencing to consider proposed changes to the agency's rules. There will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

Join Zoom Meeting: https://mt-gov.zoom.us/j/88011680459

Meeting ID: 880 1168 0459; Password: 779161

Dial by Telephone: +1 646 558 8656

Meeting ID: 880 1168 0459; Password: 779161

Comments

Concerned persons may present their data, views, or arguments at the hearing. Written data, views, or arguments may also be submitted at dli.mt.gov/rules or P.O. Box 1728, Helena, Montana 59624. Comments must be received by Friday, October 24, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Monday, October 13, 2025, at 5:00 p.m.

Contact

Department of Labor and Industry
(406) 444-5466
laborlegal@mt.gov
Montana Relay: 711

General Reasonable Necessity Statement

The 2025 Montana Legislature passed House Bill 246 which was signed by the Governor April 3, 2025, and will become effective October 1, 2025. The bill standardizes substantial equivalency determinations in professional licensing and eliminates duplicative statutory sections regarding equivalency and reciprocity.

While historically available to applicants licensed in other states or jurisdictions, licensure by substantial equivalency has never been consistent among the professional licensing boards and programs. House Bill 246 creates a standard definition for determining substantial equivalency to be uniformly utilized by all the boards and programs when processing endorsement applications. This will create overall efficiencies in processing endorsement applications and reduce licensing wait times for applicants and employers.

To implement the legislation and further the endorsement licensing process, the Board of Funeral Service (board) is proposing to adopt NEW RULE 1. The board has compared current licensure standards of the fifty United States for Board licensees and determined those that are substantially equivalent per the definition in 37-1-302, MCA. This new rule will adopt and incorporate by reference the board's initial approved list of states having substantially equivalent licensing standards. The list will be published on the board's website. The board will analyze other states' licensing standards annually, and update the published list as needed.

Rulemaking Actions

ADOPT

The rule proposed to be adopted is as follows:

NEW RULE 1 SUBSTANTIAL EQUIVALENCY

(1) The board adopts and incorporates by reference the 2025 substantial equivalency list for the Board of Funeral Service publication. The publication is available on the board's website.

(2) The board intends to review the publication annually. However, failure to review or adopt a new list does not change the effectiveness of the adoption in this rule.

(3) License applications from individuals licensed in substantially equivalent states are routine applications as to the education, examination, and experience requirements for licensure. Applications may be nonroutine on other bases.

Authorizing statute(s): 37-1-131, MCA

Implementing statute(s): 37-1-304, MCA

Small Business Impact

Pursuant to 2-4-111, MCA, the Montana small businesses that will probably be affected by the proposed rule changes are funeral homes and crematoriums. The board has determined that the proposed rule changes will not create a negative significant and direct impact on these small businesses. The board has determined that the proposed rule changes will have a positive impact on small businesses by encouraging individuals to enter Montana and join the Montana workforce.

Bill Sponsor Notification

The bill sponsor contact requirements apply and have been fulfilled. The primary bill sponsor was contacted on July 7, 2025, by electronic mail.

Interested Persons

The agency maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the agency. Persons wishing to have their name added to the list may sign up at dli.mt.gov/rules or by sending a letter to P.O. Box 1728, Helena, Montana 59624 and indicating the program or programs about which they wish to receive notices.

Rule Reviewer

Quinlan L. O'Connor

Approval

Sarah Swanson, Commissioner

Approval

Jim Axelson, Board Chair, Board of Funeral Service

MONTANA
ADMINISTRATIVE
REGISTER

DEPARTMENT OF LIVESTOCK

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-330.1

Summary

Amendment of ARM 32.2.403 pertaining to veterinary diagnostic laboratory fees

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No Hearing Scheduled

If the agency receives requests for a public hearing on the proposed rulemaking from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed rulemaking; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register.

The estimated number of persons directly affected by the proposed rulemaking is 850.

Comments

Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to the contact information listed below. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing in writing to the contact information listed below. Comments must be received by Monday, October 27, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Monday, October 6, 2025, at 5:00 p.m.

Contact

Lindsey Simon, Department of Livestock
(406) 444-7631
MDOLcomments@mt.gov
TTY: (800) 253-4091
Fax: (406) 444-4316

General Reasonable Necessity Statement

The department proposes to increase the test fees charged by its Montana Veterinary Diagnostic Laboratory (MVDL) by applying a 3% inflationary increase. This increase will help cover the cost of testing supplies, consumables, and other provided services related to testing. Additionally, certain fee increases are proposed to increase based on cost/market analysis (fecal flotation, cytology, select pathology, chronic wasting disease ELISA, ground shipping, and blood tube mailers) to bring MVDL's fees more in line with market prices.

The department also proposes to add new approved tests—fecal flotation (quantitative) and three equine herpesvirus PCRs—to better serve its customers and the Montana veterinary community. African swine fever is proposed to be added to the rule because MVDL is contractually obligated by the United States Department of Agriculture to provide this test if requested. Carcass incineration costs are being amended to reflect a minimum and maximum charge in addition to the by-weight charge to ensure that MVDL does not lose money on disposal of small carcasses and to ensure that owners of abnormally large carcasses do not pay more than necessary upon disposal.

Finally, the department proposes stylistic changes to the rule to make it easier for readers to find the desired test. These stylistic changes include alphabetizing the tests, amending test names to better match the names listed on MVDL's submission guide, italicizing scientific names, capitalizing first letters and genus names, and adjusting table margins for cleaner lines and consistency.

Rulemaking Actions

AMEND

The rule proposed to be amended is as follows, stricken matter interlined, new matter underlined:

32.2.403 DIAGNOSTIC LABORATORY FEES

(1) Services available through the Montana Department of Livestock Veterinary Diagnostic Laboratory (MVDL) are listed in the chart in (3), entitled MVDL Services and Fees.

(a) Mailing costs:

(i) all submissions must have shipping cost or postage prepaid;

(ii) "collect on delivery" shipments are not accepted;

(iii) any mailing costs incurred by the laboratory will be billed to the submitter.

(b) Delinquent accounts:

(i) A 1.5 percent monthly interest rate will be charged on accounts over 30 days.

(ii) Laboratory results on any account 90 days delinquent will be withheld until the entire payment is received.

(c) A 50 percent surcharge will be assessed when expedited processing is requested on a case.

(2) An accession is defined as an MVDL case number assigned to specimens from animals that are submitted by a veterinarian, owner, or other agent to the laboratory for diagnostic or surveillance testing.

(a) A fee of $5.00 will be assessed for each accession except those that are exempted. Exempted accessions are Equine Infectious Anemia (EIA) tests.

(3) MVDL services and fees:

(a) Clinical Microbiology/Bacteriology~~:~~

Test	Fee
Aaerobic culture	$~~30.00~~30.90
Aaerobic culture - additional isolate	$~~15.00~~15.45
Aanaerobic culture	$~~35.00~~36.00
Aanaerobic culture - additional isolate	$~~22.00~~22.65
Aantibiotic susceptibility testing~~sensitivity –~~ - additional	$~~15.45~~15.90

drugs (per isolate, per drug)	
Antimicrobial susceptibility testing MIC	$25.75
Bovine *Tritrichomonas foetus* culture	$7.40
Bbrucella culture	$20.6021.20
Ccampylobacter culture	$16.5017.00
Canine diarrhea diagnostic panel	$113.00
Ddermatophyte culture	$30.9031.80
Ddirect microscopy/gram stain/acid fast stain	$10.3010.60
Ffecal occult blood	$11.3011.65
Feline diarrhea diagnostic panel	$144.00
Feline *Tritrichomonas foetus* culture	$9.30
Ffungal culture	$30.9031.80
Giardia SNAP	$19.10
Llisteria culture	$24.7025.45
Mmycoplasma culture	$20.6021.20
Ssalmonella culture	$20.6021.20
Ssalmonella enteritidis, *Ssalmonella pullorum*, or *Ssalmonella gallinarum* confirmatory culture	$28.8529.70
~~bovine tritrichomonas foetus culture~~	~~$7.20~~
~~feline tritrichomonas foetus culture~~	~~$9.00~~
~~giardia antigen SNAP test~~	~~$18.55~~
~~feline diarrhea diagnostic panel~~	~~$140.00~~
~~canine diarrhea diagnostic panel~~	~~$110.00~~
~~Antimicrobial susceptibility testing MIC~~	~~$25.00~~

(b) Clinical Microbiology/Parasitology

Test	Fee
Ccryptosporidium~~a~~ exam	$10.3010.60
Ddirofilaria immitis (canine heartworm) ELISA	$12.3512.70
Ddirofilaria immitis (canine heartworm) microfilaria filtration	$12.3512.70
Ffecal flotation	$15.4518.00
Ffecal flotation (quantitative)	$23.00
Ggiardia ELISA	$35.0036.00
Liver fluke sedimentation	$31.80
Pparasite or arthropod identification	$28.8529.70
~~liver fluke sedimentation~~	~~$30.90~~
Ttrichinella —pepsin degradation	$86.5089.00

(c) Clinical Pathology

Test	Fee

Biochemistry panels:	
Canine endocrine panel	$29.70
Electrolyte panel	$13.80
Expanded electrolyte panel	$19.10
Feline geriatric panel	$19.10
Large animal panel	$31.80
Small animal hepatic panel	$25.45
Small animal panel	$31.80
Small animal renal panel	$25.45
Clinical profiles:	
Equine fitness profile	$42.45
Feline profile	$84.90
Large animal clinic profile	$48.80
Large animal health screen	$63.65
Small animal clinical profile	$45.60
Small animal health screen	$61.50
Small animal pre-anesthetic profile	$31.80
~~small animal health screen~~	~~$59.75~~
~~large animal health screen~~	~~$61.80~~
~~small animal clinical profile~~	~~$44.30~~
~~large animal clinical profile~~	~~$47.40~~
~~small animal pre-anesthetic profile~~	~~$30.90~~
~~feline profile~~	~~$82.40~~
~~equine fitness profile~~	~~$41.20~~
Endocrinology:	
ACTH stimulation	$37.10
Canine thyroid panel	$37.10
Canine total T4	$12.75
Canine TSH	$12.75
Cortisol - canine, feline, equine	$19.00
Cortisol - pre & post	$37.10
Dexamethasone suppression - pre & post	$53.00
Feline thyroid panel	$31.80
Free T4 - canine & feline	$12.75
Total T3	$12.75
Total T4	$12.75
~~canine thyroid panel~~	~~$36.05~~
~~thyroid panel - feline~~	~~$30.90~~
~~canine total T4~~	~~$12.35~~
~~total T4~~	~~$12.35~~
~~canine TSH~~	~~$12.35~~
~~free T4 – canine & feline~~	~~$12.35~~

~~total T3~~	~~$12.35~~
~~cortisol: canine, feline, equine~~	~~$18.55~~
~~ACTH stimulation~~	~~$36.05~~
~~cortisol: pre & post~~	~~$36.05~~
~~dexamethasone suppression: pre & post~~	~~$51.50~~
~~Biochemistry panels:~~	~~-~~
~~small animal panel~~	~~$30.90~~
~~large animal panel~~	~~$30.90~~
~~small animal hepatic panel~~	~~$24.70~~
~~small animal renal panel~~	~~$24.70~~
~~canine endocrine panel~~	~~$28.85~~
~~feline geriatric panel~~	~~$18.55~~
~~electrolyte panel~~	~~$13.40~~
~~expanded electrolyte panel~~	~~$18.55~~
~~Other serum chemistry:~~	~~-~~
~~bile acids: canine, feline, equine~~	~~$30.90~~
~~bile acids: pre & post~~	~~$43.25~~
Hematology:	
Feline anemia panel	$50.90
Fibrinogen	$8.25
Hemotropic parasite screen	$6.40
Large animal CBC - with differential	$22.65
Large animal CBC - without differential	$15.45
Reticulocyte count	$10.30
Small animal CBC - with differential	$22.65
Small animal CBC - without differential	$15.45
~~small animal CBC/differential~~	~~$22.00~~
~~large animal CBC/differential~~	~~$22.00~~
~~small animal CBC/without differential~~	~~$15.00~~
~~large animal CBC/without differential~~	~~$15.00~~
~~reticulocyte count~~	~~$10.00~~
~~feline anemia panel~~	~~$49.45~~
~~fibrinogen~~	~~$8.00~~
~~hemotropic parasite screen~~	~~$6.20~~
~~urinalysis~~	~~$18.00~~
Miscellaneous clinical pathology tests:	
B~~b~~lood cross match	$~~18.55~~19.10
B~~b~~uffy coat exam	$~~32.95~~33.95
C~~c~~anine direct C~~c~~oombs	$~~32.95~~33.95
IgG RID - bovine & equine	$19.10
I~~i~~ndividual coagulation test - PT & APTT only	$~~24.70~~25.45
~~IgG RID – bovine & equine~~	~~$18.55~~

Oocular nitrate	$16.5017.00
Phenobarbital	$29.70
PLI: - canine, feline	$28.8529.70
phenobarbital	$28.85
Individual biochemical tests (each)	$3.00
Other serum chemistry:	
Bile acids - canine, feline, equine	$31.80
Bile acids - pre & post	$44.55
Urinalysis	$18.50

(d) Cytology

Test	Fee
CSF analysis: - SG, microprotein, cytospin, cytology	$61.8065.00
Ffluid analysis: - total cell count, TP, SG, cytology	$55.0060.00
FNA: - imprint, smear, stained, or unstained	$50.0055.00

(e) Histopathology/Immunohistochemistry

Test	Fee
Bbiopsy per site (includes special stains, as needed)	$60.0065.00
mail-in necropsy (includes special stains, as needed)	$60.00
Ddecalcification/keratin treatment	$11.3012.00
Duplicate/research/other slide processing (H&E)	$9.00 per slide
Immunohistochemistry (IHC)	$38.00
Mmargin inking/evaluation	$10.3010.50
Necropsy mail-in (includes special stains, as needed)	$65.00
immunohistochemistry (IHC)	$35.00
Sspecial stains (- additional request)	$10.3010.50
Duplicate/research/other slide processing (H&E)	$8.00 per slide

(f) Milk Testing

Test	Fee
Aadded water	$5.155.35
Alkaline phosphatase	$8.50
Aantibiotic residue	$25.7526.60
Bbrucella ring	$8.258.50
Ccoliform plate count	$25.0025.80
Ccomponent electronic	$10.0010.30
Component manual Ggerber butterfat	$5.155.40
Component manual Mmajonnier butterfat	$15.4516.00

~~phosphatase~~	~~$8.25~~
S~~s~~omatic cell count~~:~~	$~~10.00~~10.30
S~~s~~tandard/aerobic plate count	$~~25.00~~25.80
Y~~y~~east & mold	$~~8.25~~8.50

(g) Molecular Diagnostics (PCR)

Test	Fee
A~~a~~vian influenza (AI)	$~~41.20~~42.45
Bovine coronavirus/rotavirus multiplex PCR	$~~46.35~~47.75
Bovine respiratory disease viral PCR panel	$53.00
B~~b~~ovine viral diarrhea virus (BVDV):	
I~~i~~ndividual samples (ear notch samples)	$~~41.20~~42.45
MVDL pooled (ear notch samples)	$~~66.95~~69.00
~~E. coli - K99~~	~~$41.20~~
~~bovine respiratory disease viral PCR panel~~	~~$51.50~~
Classical Swine Fever, African Swine Fever, Foot & Mouth Disease, Vesicular Stomatitis Virus, Swine Influenza Virus, or Avian Paramyxovirus PCR	$~~41.20~~42.45 each
Clostridium perfringens typing PCR	$42.45
Coxiella and *Chlamydophila* PCR	$38.20
Equine herpes virus 1 PCR	$42.45
Equine herpes virus 4 PCR	$42.45
Equine herpes virus 1 & 4 PCR	$47.75
Escherichia coli - K99	$42.45
M~~m~~ycobacterium avium paratuberculosis (Johne's):	
I~~i~~ndividual sample	$~~37.10~~38.20
MVDL pooled (up to 5 feces samples)	$~~43.25~~44.55
Mycoplasma bovis PCR	$38.20
Rabbit hemorrhagic disease virus (RHDV) PCR	$42.45
S~~s~~almonella enteritidis PCR	$~~37.10~~38.20
T~~t~~ritrichomonas foetus:	
I~~i~~ndividual sample	$~~30.90~~31.80
MVDL pooled (up to 5 samples)	$~~56.65~~58.35
~~coxiella and chlamydophila PCR~~	~~$37.10~~
~~mycoplasma bovis PCR~~	~~$37.10~~
~~rabbit hemorrhagic disease virus (RHDV) PCR~~	~~$41.20~~
~~clostridium perfringens typing PCR~~	~~$41.20~~

(h) Pathology

Test	Fee
A~~a~~bortion workup, livestock	$~~85.00~~90.00

After hours carcass receiving	$50.00
Animal remains return/transfer	$25.00
~~neonatal diarrhea workup - livestock~~	~~$140.00~~
Ccarcass disposal - incineration (livestock)(per lb) (min: $10, max: $400)	$0.50
Ccarcass disposal - incineration (other species)(per lb) (min: $10, max: $400)	$1.00
~~Animal remains return/transfer~~	~~$25.00~~
~~Pathologist time (after hours/insurance/legal cases)~~	~~$200.00/hour~~
~~after hours carcass receiving~~	~~$50.00~~
Nnecropsy - livestock	$125.00
Nnecropsy - other species	$155.00
Neonatal diarrhea workup - livestock	$150.00
Pathologist time (after hours/insurance/legal cases)	$200.00/hour
Sspinal cord removal (in addition to necropsy fee):	
Large animal	$125.00
Ssmall animal	$75.00
~~large animal~~	~~$125.00~~

(i) Rabies

Test	Fee
~~small animal~~	~~$36.00~~
Llivestock (with histopathology)	$67.00
Small animal	$36.00

(j) Serology

Test	Fee
Aanaplasmosis cELISA	$~~10.30~~10.60
Aavian influenza (AI) AGID	$~~8.25~~8.50
Bbluetongue cELISA	$~~10.30~~10.60
Bovine leukemia virus (BLV) AGID	$10.60
Bbovine leukemia virus (BLV) ELISA	$~~8.25~~8.50
~~bovine leukemia virus (BLV) AGID~~	~~$10.30~~
Bbovine respiratory syncytial virus (BRSV) –SN	$~~10.30~~10.60
Bbovine virusal diarrhea virus (BVDV) type I, II - SN	$~~18.55~~19.10
Bbovine virusal diarrhea virus (BVDV) ELISA	$~~6.20~~6.40
Bbrucella abortus/suis:	
Ccard, BAPA, or RAP	$2.50
FPA	$3.50
Rrivanol, SPT, CF, STT	$3.50
Bbrucella ovis/canis ELISA	$~~9.25~~9.50

Cc~~c~~aprine arthritis encephalitis (CAE)/ovine progressive pneumonia (OPP) cELISA	$~~9.25~~9.50
Ee~~-~~pizootic hemorrhagic disease virus (EHDV) ~~–~~AGID	$~~13.40~~13.80
Epizootic hemorrhagic disease virus (EHDV) ELISA	$13.40
Ee~~-~~quine infectious anemia (EIA) AGID individual sample	$~~10.30~~10.60
Ee~~-~~quine infectious anemia (EIA) cELISA individual sample	$~~14.40~~14.80
EIA Global Vet Link surcharge (per animal)	$2.00
I~~i~~nfectious bovine rhinotracheitis (IBR)~~-~~ SN	$~~9.25~~9.50
L~~l~~eptospirosis MAT:	-
(routine) *L. canicola*, *L. grippo*, *L. hardjo*, *L. ictero*, *L. pomona*	$~~15.45~~15.90
(routine) + *L. autumnalis~~,~~* & *L. bratislava*	~~$3.00/serovar~~$22.10
Per serovar	$3.00
M~~m~~ycobacterium avium paratuberculosis (~~PTB~~Johne's) ELISA	$~~9.25~~9.50
P~~p~~arainfluenza virus type 3 (PI3) ~~–~~HAI	$~~7.20~~7.40
P~~p~~seudorabies ~~–~~gB ELISA	$~~7.75~~8.00
S~~s~~almonella pullorum/gallinarum MAT	$~~6.70~~6.90
V~~v~~esicular stomatitis virus (VSV):	
CF	$~~56.65~~58.35
NJ & Ind ~~–~~SN	$~~18.50~~19.00
W~~w~~est N~~n~~ile virus IgM ELISA	$~~26.75~~27.50
~~epizootic hemorrhagic disease virus ELISA~~	~~$13.00~~

(k) Serology - Small Animal

Test	Fee
B~~b~~rucella canis - RSAT screen, 2ME-TAT confirmation	$~~26.75~~27.50
F~~f~~eline infectious peritonitis (FIP)/feline enteric coronavirus (FCoV) ELISA	$~~36.00~~37.00
F~~f~~eline leukemia virus (FeLV) SNAP	$~~24.45~~25.50
F~~f~~eline leukemia/feline immunodeficiency virus/heartworm SNAP	$~~32.95~~34.00

(l) Virology

Test	Fee
Bovine viral diarrhea virus (BVDV) SNAP	$7.40
Brucella canis IFA	$25.75
Canine distemper virus ELISA	$12.35
C~~c~~anine parvovirus SNAP	$~~30.90~~31.80
Canine tick-borne disease antibody screen (4 tests)	$82.40

Anaplasma phagocytophilum (canine anaplasmosis) IFA	$27.80
Borrelia burgdorferi (Lyme disease) IFA	$27.80
Ehrlichia canis (canine ehrlichoisis) IFA	$27.80
Rickettsia rickettsii (rocky mountain spotted fever) IFA	$27.80
Chronic wasting disease ELISA	$17.00
Chronic wasting disease IHC	$36.00
Coxiella burnetii (Q fever) ELISA	$13.80
Equine abortion serology panel	$46.35
Equine rhinopneumonitis (equine herpesvirus) SN	$16.50
Equine tick-borne disease antibody screen (2 tests)	$51.50
Anaplasma phagocytophilum (equine erhlichosis) IFA	$27.80
Borrelia burgdorferi (Lyme disease) IFA	$27.80
Equine viral arteritis (EVA) SN	$17.00
Ffluorescent antibody (FA) testing - per agent:	
Bbbovine coronavirus (BCV)	$11.3011.65
Bbbovine respiratory syncytial virus (BRSV) SN	$11.3011.65
Bbbovine viral diarrhea virus (BVDV)	$11.3011.65
Ccanine distemper (CDV)	$11.3011.65
Ccanine parvovirus (CPV)	$11.3011.65
Eequine herpesvirus (EHV)	$11.3011.65
Ffeline panleukopenia (FPLV)	$11.3011.65
Ffeline infectious peritonitis (FIP)/feline enteric coronavirus (FCoV)	$11.3011.65
Ffeline herpes virus (FHV)	$11.3011.65
Iinfectious bovine rhinotracheitis (IBR)	$11.3011.65
Lleptospira interrogans	$11.3011.65
Miscellaneous	$11.65
Pparainfluenza –virus type 3 Virus (PI-3)	$11.3011.65
Pporcine parvovirus (PPV)	$11.3011.65
Neospora caninum cELISA	$8.00
Ovine abortion serology panel	$51.50
~~chronic wasting disease IHC~~	~~$35.00~~
~~chronic wasting disease ELISA~~	~~$15.00~~
~~virus isolation (livestock only)~~	~~$35.00~~
~~bovine viral diarrhea virus (BVDV) antigen SNAP test~~	~~$7.20~~
~~equine virus arteritis (EVA) virus neutralization test~~	~~$16.50~~
Parainfluenza virus type 3 (PI3) SN	$7.40
Ppregnancy test	$4.604.75
Pregnancy ELISA	$6.00

Ruminant abortion serology panel	$51.50
Ssmall animal pregnancy test	$25.7526.52
coxiella burnetii (Q fever) ELISA	$13.40
parainfluenza virus type 3 serum neutralization (PI-3)	$7.20
canine distemper virus ELISA	$12.00
Ttoxoplasmosis IgG ELISA	$14.5014.95
Virus isolation (livestock only)	$36.00
equine rhinopneumonitis (equine herpesvirus) serum neutralization test	$16.00
ruminant abortion serology panel	$50.00
equine abortion serology panel	$45.00
ovine abortion serology panel	$50.00
brucella canis IFA	$25.00
canine tick-borne disease antibody screen (4 tests)	$80.00
ehrlichia canis (canine ehrlichoisis) IFA	$27.00
anaplasma phagocytophilum (canine asaplasmosis) IFA	$27.00
borrelia burgdorferi (Lyme disease) IFA	$27.00
rickettsia rickettsii (rocky mountain spotted fever) IFA	$27.00
equine tick-borne disease antibody screen (2 tests)	$50.00
anaplasma phagocytophilum (equine erhlichosis) IFA	$27.00
borrelia burgdorferi (Lyme disease) IFA	$27.00

(m) Miscellaneous Tests/Fees

Test	Fee
After hours reporting fee	$20.00
Blood tube mailers (small) (5 tubes)	$2.50
Blood tube mailers (medium) (4 tubes + slides)	$5.00
Blood tube mailers (large) (8 tubes + slides)	$7.50
Blood tube mailers (40 tubes)	$2.00
Blood tube mailers (100 tubes)	$3.00
Campylobacter tube	$2.00
Cleaning/decontamination	$2.00
Client requested corrected report fee	$10.00
Dduplicate test result reporting (hard copy)	$4.005.00
Formalin jar (small)	$2.50
Formalin jar (large)	$3.50
organization fee	$75.00/hour

~~after hours reporting fee~~	~~$20.00~~
~~shipping and handling (referrals)~~	~~$20.00~~
Iincoming ground shipping (web submissions)	$~~8.00~~10.00
Iincoming overnight shipping (web submissions)	$18.00
~~client requested corrected report fee~~	~~$10.00~~
~~neospora caninum c~~ELISA	~~$8.00~~
Organization fee	$75.00/hour
~~pregnancy ELISA~~	~~$6.00~~
~~kits (abortion, diarrhea, necropsy, biopsy)~~	~~$5.00~~
Ppads of forms	$5.00
R~~r~~abies shippers	$22.00
Shipping and handling (referrals)	$20.00
Specimen collection/transport kids (abortion, diarrhea, necropsy, biopsy)	$5.00
~~blood tube mailers (small) (5 tubes)~~	~~$2.50~~
~~blood tube mailers (medium) (4 tubes + slides)~~	~~$5.00~~
~~blood tube mailers (large) (8 tubes + slides)~~	~~$7.50~~
~~40 tube blood mailers~~	~~$2.00~~
~~100 tube blood mailers~~	~~$2.00~~
Ssupply order handling fee	$2.00
~~cleaning/decontamination~~	~~$7.50~~
*Trit*rich*omonas* transfer pouches	$7.50
~~campylobacter tube~~	~~$2.00~~
~~formalin jar (small)~~	~~$2.50~~
~~formalin jar (large)~~	~~$3.50~~

Authorizing statute(s): 81-1-102, 81-2-102, MCA

Implementing statute(s): 81-1-301, 81-1-302, 81-2-102, MCA

Small Business Impact

Veterinarians and veterinary offices make up three-fourths of submitters to the MVDL. Veterinarians are thus the small business class most affected by the proposed rule change, and they will be required to pay higher fees upfront. These fees are usually passed along to the animal's owner, although collection and recoupment is a contract matter between the veterinarians and their clients. Documentation of the small business impact analysis is available upon request.

On average there are approximately 600 veterinary submitters, 150 private submitters, and 100 government entity submitters to the MVDL each year. Based on the average number of tests performed in fiscal years 2022, 2023, and 2024, the department estimates that the proposed fee increases will result in approximately $67,000 in additional MVDL revenue each year. However, the volume of specific tests performed each year fluctuates significantly with the presence or absence of animal disease.

Bill Sponsor Notification

The bill sponsor contact requirements do not apply.

Interested Persons

The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, email, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Written requests may be mailed or delivered to the contact person listed in this notice or may be made by completing a request form at any rules hearing held by the agency.

Rule Reviewer

Lindsey Simon, Legal Counsel

Approval

Michael Honeycutt, Executive Officer

MONTANA
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MONTANA STATE LIBRARY

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-218.1

Summary

This proposal is intended to amend ARM 10.102.1160 pertaining to the Montana State Library certification program.

Hearing Date and Time

Monday, November 3, 2025, at 10:00 a.m.

Virtual Hearing Information

https://mt-gov.zoom.us/j/84961129918?pwd=SUI2aTRxanZKVmdjQzZWeEFlVzV6QT09

Comments

Concerned persons may present their concerns, views, arguments, or information in support of or against the proposed rules at the hearing. Written concerns, views, arguments, or information in support of or against the proposed rulemaking may also be submitted using the contact information below. Comments must be received by Friday, November 7, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Thursday, October 30, 2025, at 5:00 p.m.

Contact

Victoria Gersdorf
(406) 444-3115
vgersdorf@mt.gov

Rulemaking Actions

AMEND

The rule proposed to be amended is as follows, stricken matter interlined, new matter underlined:

10.102.1160 PERSONNEL

(1) Staff members are offered health insurance according to local policy.

(2) Staff members are offered retirement benefits according to local policy.

(3) The board adopts a sufficient budget for continuing education.

(4) During 90% of open hours, paid staff are available to assist users.

(5) Staff have the tools and training they need to perform their work.

(6) The director is or will be certified by the Montana State Library within the required timeframe mandated by the certification program adopted by the Montana State Library Commission.

(a) The purpose of the certification program is to ensure library directors have the foundational skills necessary to manage a public library that meets standards set forth in ARM Title 10, chapter 102, suchapter 11, Public Library Development.

(b) A course of study and topics offered by the State Library will be reviewed by the commission annually for approval at its final meeting of the state fiscal year.

(c) Continuing education credits issued through the State Library certification program are the only eligible credits that can be applied to certification.

(d) The certification program will be reviewed on a regular schedule with no more than ten years between reviews.

Authorizing statute(s): 22-1-103, MCA

Implementing statute(s): 22-1-103, MCA

Statement of Reasonable Necessity

The proposed addition of (6)(a) through (d) is intended to simplify the certification program by defining a process to adopt a course of study and other requirements for library director certification.

Small Business Impact

The State Library Commission adopts rules that primarily impact library governance and operations. The State Library works in cooperation with libraries across the state to implement the rules that are adopted. Given that the State Library Commission does not work directly with small businesses, the small business impact analysis performed as required under 2-4-111, MCA, indicates that no small businesses are likely to be directly impacted by the proposed rule changes.

Bill Sponsor Notification

The bill sponsor contact requirements do not apply.

Interested Persons

The agency maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the agency, including public library trustees and staff and local government officials. Persons wishing to have their name added to the list may sign up at MSLAdmin@mt.gov or by sending a letter to PO Box 201800, Helena, MT 59620.

Rule Reviewer

Jennie Stapp, State Librarian

Approval

Robyn Scribner
Commission Chair
State Library Commission

MONTANA
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MONTANA STATE LIBRARY

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-255.1

Summary

This rulemaking amends the public library standard pertaining to libraries' open hours requirements.

Hearing Date and Time

Monday, November 3, 2025, at 9:00 a.m.

Virtual Hearing Information

https://mt-gov.zoom.us/j/84961129918?pwd=SUI2aTRxanZKVmdjQzZWeEFlVzV6QT09

Comments

Concerned persons may present their concerns, views, arguments, or information in support of or against the proposed rules at the hearing. Written concerns, views, arguments, or information in support of or against the proposed rulemaking may also be submitted using the contact information below. Comments must be received by Friday, November 7, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Thursday, October 30, 2025, at 5:00 p.m.

Contact

Victoria Gersdorf
406-444-3115
vgersdorf@mt.gov

Rulemaking Actions

AMEND

The rule proposed to be amended is as follows, stricken matter interlined, new matter underlined:

10.102.1159 SERVING THE COMMUNITY

(1) The library is open during convenient hours. ~~At a minimum,~~ On average, the library is open a~~t least~~ the following number of hours weekly, as reported by the library in the annual public library survey:

Service Area Population	Minimum	Desirable
Fewer than 3,500	~~15 hours~~ 10.5 hours	25-40 hours
3,501 – 9,999	~~30 hours~~ 21 hours	40-50 hours
10,000 – 24,999	~~40 hours~~ 28 hours	50-60 hours
More than 25,000	~~50 hours~~ 35 hours	60+ hours

(2) Everyone has safe, comfortable, and convenient access to the library and its services.

(3) Everyone has access to updated and regularly maintained physical and digital library content and services.

(4) Everyone can find library materials online.

(5) Everyone has access to virtual and face-to-face programming.

(6) Everyone has access to information about local community and government activities that assists them with understanding local community issues and allows them to engage civically in the community.

(7) Children and caregivers have access to early literacy programming and materials either through the library or by being directed to another community organization that specializes in early literacy.

(8) Everyone has access to information about library programs and services through internal and external marketing efforts of library staff.

(9) Everyone has access to a library website or social media site.

(10) Everyone can obtain materials and services from another library through interlibrary loan services.

(11) Everyone has access to the Internet via wired and WIFI connections.

(12) Reasonable accommodations are made so that people with disabilities have access to the library's services.

Authorizing statute(s): 22-1-103, MCA

Implementing statute(s): 22-1-103, MCA

Statement of Reasonable Necessity

The proposed change to the period of reporting for open library hours from weekly to annually is intended to provided libraries the flexibility to account for weeks when they may be closed due to holidays or other scheduling priorities. Annual reporting is consistent with reporting for the Public Library Survey. The proposed reduction in the minimum number of open hours required by a public library is intended to allow libraries the option to reduce the number of hours they are open.

Small Business Impact

The State Library Commission adopts rules that primarily impact library governance and operations. The State Library works in cooperation with libraries across the state to implement the rules that are adopted. Given that the State Library Commission does not work directly with small businesses, the small business impact analysis performed as required under 2-4-111, MCA, indicates that no small businesses are likely to be directly impacted by the proposed rule changes.

Bill Sponsor Notification

The bill sponsor contact requirements do not apply.

Interested Persons

The agency maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the agency, including public library trustees and staff and local government officials. Persons wishing to have their name added to the list may sign up at MSLAdmin@mt.gov or by sending a letter to P.O. Box 201800, Helena, MT 59620.

Rule Reviewer

Jennie Stapp, State Librarian

Approval

Robyn Scribner
Commission Chair
State Library Commission

MONTANA
ADMINISTRATIVE
REGISTER

SECRETARY OF STATE

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-251.1

Summary

The rulemaking proposes a new draft of the Ballot Layout Guide.

Hearing Date and Time

Friday, October 17, 2025, at 11:00 a.m.

Hearing Information

Secretary of State's Office conference room, Room 260, State Capitol, Helena, Montana

Comments

Comments may be submitted using the contact information below. Comments must be received by Friday, October 24, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Friday, October 10, 2025, at 5:00 p.m.

Contact

Andy Ritter
(406) 444-7911
andrew.ritter@mt.gov
Montana Relay: 711
Fax: (406) 444-3976

Rulemaking Actions

AMEND

The rule proposed to be amended is as follows, stricken matter interlined, new matter underlined:

44.3.2408 BALLOT FORM AND UNIFORMITY

(1) The Secretary of State's Office adopts and incorporates by reference the "Ballot Layout Guide" dated ~~January 16, 2024~~ September 16, 2025, which county election administrators must follow to ensure uniformity of the ballot form for each type of ballot used in the state as required by 13-12-202, MCA. A copy of the Ballot Layout Guide can be accessed on the Secretary of State's website at sosmt.gov.

Authorizing statute(s): 13-1-202, 13-12-202, MCA

Implementing statute(s): 13-1-202, 13-12-202, MCA

Reasonable Necessity Statement

The Secretary of State is updating the Ballot Layout Guide in response to the passage of House Bill 207 and Senate Bill 242. The Ballot Layout Guide is also being updated to simplify portions of the ballot layout.

House Bill 207 was passed by the 2025 Legislature. This bill moved the filing deadline for write-in candidates to the same date as other candidates, 90 days before the election. House Bill 536 was passed by the 2023 Legislature, which changed how write-in votes can be counted and only allows write-in votes to be counted for filed candidates. With both changes in statute, the need to have a write-in line on the ballot in the case where a write-in candidate filed after the ballot certification date and before the previous statutory deadline is no longer necessary. Printing write-in lines on the ballot for all offices takes up space. Eliminating the space the write-in line takes up will allow more ballots to be single-sided and also reduce the chance that a second ballot page would be required. Printing a write-in line on the ballot only for those offices that

have a filed write-in candidate will reduce voter confusion while voting a ballot. Currently, a voter can write someone in even though there is no filed candidate for that office under the mistaken expectation that their write-in vote would be counted. Only having a write-in line for offices with filed write-in candidates reduces the administrative burden on county election staff and election judges. Currently, every ballot with a write-in vote must be manually reviewed to determine if the write-in vote is valid and for a filed candidate. Reducing the write-in lines to only offices with filed candidates would substantially reduce the number of ballots during an election that would need to be manually reviewed.

Senate Bill 242 updates the requirement to hand stamp ballots with the words "official ballot." The Ballot Layout Guide gives direction on the printing of the words "official ballot" on the ballot to fulfill the requirement of the bill.

The Ballot Layout Guide has been updated to standardize the size of the ballot stub. Ballot stub lengths have been variable which can cause issues with ballot design, layout, printing, and stub perforation. Having statewide uniformity helps to prevent those problems.

The Ballot Layout Guide has been updated to simplify portions of the ballot to remove voter confusion and to facilitate ballot design and layout. The changes also reduce the space required for those items on the ballot. The changes are:

- Remove the "(continued)" requirement for column headers
- Remove the "vote in next column" requirement for column footers

The Ballot Layout Guide has been updated to reflect a change in how the YES and NO choices are placed on the ballot for ballot issues. Item 11 on page 6 currently has "YES ON" and "NO ON," while 13-27-213(2), MCA, indicates it should be "YES on" and "NO on."

The Ballot Layout guide has been updated to remove the instructions that were part of the judicial retention questions for general elections. The updated format is a simple retention question with a YES/NO answer.

Small Business Impact

The proposed changes will have a positive impact on county election administrators and the voting public. The Secretary of State's Office has determined that there is no impact to small businesses.

Bill Sponsor Notification

The Secretary of State has satisfied the primary bill sponsor requirements. Representative Jodee Etchart and Senator Wendy McKamey were notified electronically on July 11, 2025.

Interested Persons

The Secretary of State maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list may submit their request online at https://sosmt.gov/arm/secretary-of-state-administrative-rules/ or submit a written request which includes the name and contact information of the person who wishes to receive notices. Written requests may be mailed or delivered to the Secretary of State's Office, Administrative Rules Services, 1301 E. 6th Avenue, P.O. Box 202801, Helena, MT 59620-2801, or emailed to sosarm@mt.gov.

Rule Reviewer

Austin Markus James

Approval

Christi Jacobsen, Secretary of State

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SECRETARY OF STATE

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-252.1

Summary

The proposed rulemaking defines what extracts and reports are available and provides the specific information included in each report.

Hearing Date and Time

Friday, October 17, 2025, at 11:30 a.m.

Hearing Information

Secretary of State's Office conference room, Room 260, State Capitol, Helena, Montana

Comments

Comments may be submitted using the contact information below. Comments must be received by Friday, October 24, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Friday, October 10, 2025, at 5:00 p.m.

Contact

Andy Ritter
(406) 444-7911
andrew.ritter@mt.gov
Montana Relay: 711
Fax: (406) 444-3976

Rulemaking Actions

AMEND

The rule proposed to be amended is as follows, stricken matter interlined, new matter underlined:

44.3.1101 ~~SCHEDULE OF FEES FOR~~ STATEWIDE VOTER DATABASE LISTS AND ~~EXTRACTS~~ REPORTS

~~(1) Upon written request, the secretary of state through its vendor shall furnish, for noncommercial use to private individuals or entities, a list of registered electors as compiled and maintained in its statewide voter registration system. For the statewide list or available extracts from the statewide list the charge is $1,000.00. For a legislative representative district list the charge is $100.00, for a legislative senate district list the charge is $150.00, for a county list the charge is $200.00, and for the petition signers report the charge is $200.00. For a subscription for ongoing access to the statewide voter registration system and all other available extracts or lists the charge is $5,000.00 for one year.~~

(1) The Secretary of State will make available for purchase for noncommercial use by private individuals or entities, certain lists and reports of registered electors as recorded in the statewide voter registration system as provided in (2). The lists and reports will be made available electronically for purchase on the Secretary of State website. Fees for electronic files of the lists and reports are:

- Voter File/Voter History File:
    - Statewide - $1,000 per copy
    - Single County - $200 per copy
    - Single Legislative Senate District - $150 per copy
    - Single Legislative House District - $100 per copy
- Absentee Ballot Report - $1,000 per copy
- Petition Signers Report - $200 per copy for a single petition

- Annual subscription for ongoing access to offered files and reports - $5,000

(2) The following reports are available for purchase:

(a) The "Voter File" is a list of voters with a current status of "active," "inactive," and "provisional." The list contains the following data for each voter entered into the statewide voter registration system by the county election administrators: Assigned Voter ID; First Name; Middle Name; Last Name; Name Suffix; Voter Status; Residential Address house number; Residential Address street name; Residential Address street type; Residential Address street pre-directional code; Residential Address street post-directional code; Residential Address unit type code; Residential Address unit number; Residential Address City; Residential Address State; Residential 5-digit zip code; Residential Address complete address; Mailing Address line 1; Mailing Address line 2; Mailing Address City; Mailing Address State; Mailing Address 5-digit zip code; Mailing Address plus 4 zip code; Mailing Address complete; Phone Number; Birth Year; Current County; Precinct; Congressional District; State House District; State Senate District; Absentee indicator; City; and Ward.

(b) The "Voter History File" is a list of information on voter participation in an election. It is sold as an optional part of the voter file and requires the voter history file match to a voter name by the assigned Voter ID. It consists of the following fields: Assigned Voter ID; Election Type; Election Date; Election Description; Election Jurisdiction County; and Voting Method.

(c) The "Absentee Ballot Report" is a 45-day moving window report of absentee ballots issued to voters and received from voters for elections managed in the voter registration system. It consists of the following fields: Assigned Voter ID; First Name; Last Name; Middle Name; Name Suffix; Mailing Address Complete; Country; Birth Year; Absentee indicator; Election Type; Election Date; Election Description; Election Jurisdiction; Ballot Sent Date; Ballot Received Date; Ballot Status; and Ballot Status Reason.

(d) The "Petition Signers Report" is a list showing the petition sheets and recorded signature lines for a petition. The list contains information as recorded by the county election administrators in the statewide voter registration system while processing each signature sheet submitted for a petition. It consists of the following fields: County; Submittal Number; Page Number; Line; Assigned Voter ID; Name; Address; Status; Verification Reason; House District; Circulator; and Processed Date.

Authorizing statute(s): 2-15-404, MCA

Implementing statute(s): 13-2-122, MCA

Reasonable Necessity Statement

Per 13-2-122, MCA, the Secretary of State shall furnish available extracts and reports from the statewide voter registration system. The Secretary's proposed amendments define what extracts/lists and reports are available. Additionally, the Secretary's proposed amendments provide transparency to the public about the information contained in each report.

The proposed rule amendment modifies the format of the listing of fees per report for clarity, but the fee amounts remain unchanged.

Small Business Impact

The proposed changes will have a positive impact to Montana voters and general public. The Secretary of State's Office has determined that there is no impact to small businesses.

Bill Sponsor Notification

The bill sponsor contact requirements do not apply.

Interested Persons

The Secretary of State maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list may submit their request online at https://sosmt.gov/arm/secretary-of-state-administrative-rules/ or submit a written request which includes the name and contact information of the person who wishes to receive notices. Written requests may be mailed or delivered to the Secretary of State's Office, Administrative Rules Services, 1301 E. 6th Avenue, P.O. Box 202801, Helena, MT 59620-2801, or emailed to sosarm@mt.gov.

Rule Reviewer

Austin Markus James

Approval

Christi Jacobsen, Secretary of State

MONTANA
ADMINISTRATIVE
REGISTER

SECRETARY OF STATE

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-318.1

Summary

This rulemaking proposes changes to voter list maintenance related to incomplete and unverified voter registration applications.

Hearing Date and Time

Friday, October 17, 2025, at 10:30 a.m.

Hearing Information

Secretary of State's Office conference room, Room 260, State Capitol Helena, Montana

Comments

Comments may be submitted using the contact information below. Comments must be received by Friday, October 24, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Friday, October 10, 2025, at 5:00 p.m.

Contact

Andy Ritter
(406) 444-7911
andrew.ritter@mt.gov
Montana Relay: 711
Fax: (406) 444-3976

Rulemaking Actions

AMEND

The rule proposed to be amended is as follows, stricken matter interlined, new matter underlined:

44.3.2005 VOTER REGISTRATION APPLICATION INFORMATION REQUIREMENTS

(1) An applicant for voter registration must provide all required information on the voter registration application, and county election ~~officials~~ administrators, election deputies, and election workers shall enter the information from each completed voter registration application into the statewide voter registration system as provided in this chapter.

(2) ~~An election official~~ County election administrators, election deputies, and election workers processing and entering the information from an application for voter registration into the statewide voter registration system shall:

(a) ~~e~~Enter the Montana driver's license number, Montana state identification card number, or the last four digits of the social security number when provided by the applicant on the voter registration application into the voter registration system maintained by the election administrator in a field provided for the number; or

(b) ~~i~~If the applicant was unable to provide one of the numbers in (2)(a), select the description of the form of identification required in ARM 44.3.2002, provided by the applicant on the voter registration application, in the voter registration system maintained by the election administrator; and

(c) ~~w~~With respect to confidential or private numbers or information protected from disclosure under ARM 44.3.1102(1)(e) and (3), ensure the numbers or information provided pursuant to (2)(a) and (b) remain accessible only by county or state election officials in the discharge of their official duties and, when applicable, by the authorized staff of the Office of the Secretary of State.

(3) ~~An election official~~ County election administrators, election deputies, and election workers shall utilize the applicant's Montana driver's license number, Montana state identification card number, or the last four digits of the applicant's social security number when provided in the voter registration application as a unique identifier in addition to the voter registration number assigned to the elector.

~~(4) An applicant for voter registration who does not complete all required fields on the application or does not provide identification, as defined in ARM 44.3.2002, shall be registered as a provisionally registered elector.~~

~~(a) If a provisionally registered elector's incomplete application does not contain the current residential address or other geographic information from which the location of the provisionally registered elector's residence can be easily identified, the applicant shall be entered as "pending – incomplete" in the statewide voter registration system until the required information is provided.~~

~~(b) If a provisionally registered elector's incomplete application does contain the provisionally registered elector's current residential address, or it can be easily ascertained from the information provided on the incomplete application, an election official shall use best efforts to contact the provisionally registered elector and request the information or documentation missing from the voter registration application.~~

~~(c) Upon receipt and verification as required under ARM 44.3.2011 of the information or documentation missing from a provisionally registered elector's voter registration application, the election administrator shall complete the registration as provided in this subchapter and shall change the elector's status to active.~~

(4) An applicant for voter registration who does not complete all required fields on the application shall be added to the voter registration system with a “pending” status. If an application lacks sufficient information to be added to the voter registration system, the election administrator, election deputy, or election worker shall make their best effort to return the form to the applicant for completion.

(a) Upon entering a pending applicant into the voter registration system, the election administrator, election deputy, or election worker shall make their best effort to contact the applicant and request the information or documentation missing from the voter registration application.

(b) Upon receipt and verification of the information or documentation missing from a pending applicant’s voter registration application, the election administrator, election deputy, or election worker shall complete the registration as provided in this chapter and shall change the record to reflect the elector's active status.

(c) If the applicant does not respond to the election administrator, election deputy, or election worker's contact efforts within 30 days, the record shall be canceled due to the incomplete registration.

(5) An applicant for voter registration who completes all required fields on the application, but whose identification is unable to be verified per 13-2-107(3), MCA, shall be added to the voter registration system with a "provisional" status.

(a) Upon entering a provisional applicant into the voter registration system, the election administrator, election deputy, or election worker shall make their best effort to contact the applicant to confirm the identification information provided.

(b) Upon receipt and verification as required under ARM 44.3.2011 of the information or documentation missing from a provisional applicant's voter registration application, the election administrator, election deputy, or election worker shall complete the registration as provided in this chapter and shall change the record to reflect the elector's active status.

(c) If the applicant does not respond to the election administrator, election deputy, or election worker's contact efforts within 30 days, the record shall be canceled due to the incomplete registration.

(6) The election administrator, election deputy, or election worker shall document the effort made to contact the applicant to resolve incomplete applications or unverified identification in the applicant's record in the voter registration system.

(7) The election administrator shall conduct an annual review of records in the voter registration system marked as "provisional" or "pending" and ensure the necessary actions are taken in accordance with this rule to resolve their status.

Authorizing statute(s): 13-2-109, MCA

Implementing statute(s): 13-2-110, 13-2-208, MCA

Reasonable Necessity Statement

House Bill 423 was passed by the 2025 Legislature and revised the rulemaking authority for voter list maintenance for the Secretary of State's Office. The bill required the Secretary of State to issue rules regarding the maintenance of voter registration applicants, including provisionally registered electors.
Voter registration applications are submitted to county election administrators with missing, incomplete, or inaccurate information. The proposed amendment to ARM 44.3.2005 clarifies the process county election administrators shall take when entering incomplete or unverified

applications into the statewide voter registration system and sets a time-frame for resolving the incomplete or unverified application. Finally, the proposed rule clarifies that adding an incomplete application to the voter registration system is not the same as "registering" the voter.

In addition, it is necessary to remove the term "election officials" and replace it with "election administrators, election deputies, and election workers" because the term "election official" includes election judges, who do not use the voter registration system. Election workers are added because they do use the system, are responsible for maintaining the confidentiality of the information provided therein, and are required to send notices to electors.

Small Business Impact

The proposed changes will enhance the integrity of elections in Montana and have a positive impact on Montana voters and county election administrators. The Secretary of State's Office has determined that there is no impact to small businesses.

Bill Sponsor Notification

The Secretary of State has satisfied the primary bill sponsor requirements. Representative Kathy Love was notified electronically on September 12, 2025.

Interested Persons

The Secretary of State maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list may submit their request online at https://sosmt.gov/arm/secretary-of-state-administrative-rules/ or submit a written request which includes the name and contact information of the person who wishes to receive notices. Written requests may be mailed or delivered to the Secretary of State's Office, Administrative Rules Services, 1301 E. 6th Avenue, P.O. Box 202801, Helena, MT 59620-2801, or emailed to sosarm@mt.gov.

Rule Reviewer

Austin Markus James

Approval

Christi Jacobsen, Secretary of State

MONTANA
ADMINISTRATIVE
REGISTER

SECRETARY OF STATE

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-360.1

Summary

This rulemaking proposes a timeline for entering voter history data in the Statewide Voter Registration System.

Hearing Date and Time

Friday, October 17, 2025, at 10:00 a.m.

Hearing Information

Secretary of State's Office conference room, Room 260, State Capitol, Helena, Montana

Comments

Comments may be submitted using the contact information below. Comments must be received by Friday, October 24, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Friday, October 10, 2025, at 5:00 p.m.

Contact

Andy Ritter
(406) 444-7911
andrew.ritter@mt.gov
Montana Relay: 711
Fax: (406) 444-3976

Rulemaking Actions

AMEND

The rule proposed to be amended is as follows, stricken matter interlined, new matter underlined:

44.3.1102 STATEWIDE VOTER REGISTRATION SYSTEM

(1) In addition to the procedures specified under (2) and (3) and ARM 44.3.2001, election officials authorized to use the statewide voter registration system must, as applicable, comply with the following procedures specified in the instruction manuals, user guides, and technical manuals as provided by the system vendor and the secretary of state (except in cases in which those materials conflict with state laws or rules, in which case the laws or rules shall apply):

(a) maintenance procedures, including new data entry, updates, registration transfers, and other procedures for keeping information current and accurate;

(b) proper maintenance and use of active and inactive lists;

(c) proper maintenance and use of lists for legally registered electors and provisionally registered electors and late registrants;

(d) technical security of the statewide voter registration system;

(e) information security with respect to keeping from general public distribution driver's license numbers, whole or partial social security numbers, and address information protected from general disclosure pursuant to 13-2-115 and 13-21-228, MCA, effective January 1, 2014; and

(f) quality control measures for the system and system users.

(2) Consistent with (1)(d), as soon as a county election administrator enters voter registration information into the statewide voter registration system, the system will automatically make that information available to the Secretary of State.

(3) Consistent with (1)(e):

(a) the driver's license numbers, whole or partial social security numbers, and address information protected from general disclosure pursuant to 13-2-115, MCA, and 13-21-228, MCA, effective January 1, 2014, may not be provided unless required by a court order; and

(b) all identifying information about an individual protected from disclosure may not be provided, unless required by a court order.

(4) For elections managed in the statewide voter registration system, county election administrators must complete entering voter history data by the time of the canvass for that election.

Authorizing statute(s): 13-2-108, MCA

Implementing statute(s): 13-2-108, 13-21-228, MCA

Reasonable Necessity Statement

SB 57, SB 58, and SB 440 were passed by the 2025 Legislature. Those bills required additional data to be available and reconciled for the county and state canvass. In addition, the Secretary of State's office has received various inquiries after elections as to when the voter history for that election would be available for purchase.

Voter history is the record in the statewide voter registration system that a voter participated in the election. SB 57 requires that the canvass board compare "…the number of votes cast to the number of electors and the number of persons who voted." SB 58 requires that canvass boards "ensure that the total number of ballots corresponds with the record of ballots accepted." SB 440 requires data provided to the county and state canvass boards to include the "number of ballots accepted by type."

Adding a defined deadline for counties to complete adding voter history to the statewide voter registration system ensures that counties can review and complete the various reports and reconciliation required by the new laws. It will also address the public's concerns about the timely release of information about voter participation in a recent election.

Small Business Impact

The proposed changes will impact county election administrators. The Secretary of State's Office has determined that there is no impact to small businesses.

Bill Sponsor Notification

The Secretary of State has satisfied the primary bill sponsor requirements. Senator Mike Cuffe and Senator Theresa Manzella were notified electronically on Thursday, August 28, 2025, and September 12, 2025.

Interested Persons

The Secretary of State maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list may submit their request online at https://sosmt.gov/arm/secretary-of-state-administrative-rules/ or submit a written request which includes the name and contact information of the person who wishes to receive notices. Written requests may be mailed or delivered to the Secretary of State's Office, Administrative Rules Services, 1301 E. 6th Avenue, P.O. Box 202801, Helena, MT 59620-2801, or emailed to sosarm@mt.gov.

Rule Reviewer

Austin Markus James

Approval

Christi Jacobsen, Secretary of State

MONTANA
ADMINISTRATIVE
REGISTER

DEPARTMENT OF ENVIRONMENTAL QUALITY

NOTICE OF ADOPTION

MAR NOTICE NO. 2025-174.2

Summary

Amendment of ARM 17.8.1214 and 17.8.1224 pertaining to the Removal of Affirmative Defense Provisions in Title V Permits and Administrative Rules

Previous Notice(s) and Hearing Information

On June 27, 2025, the department published MAR Notice No. 2025-174.1 pertaining to the proposed amendment of the agency's rules in the 2025 Montana Administrative Register, Issue Number 12.

Final Rulemaking Action – Effective September 27, 2025

AMEND AS PROPOSED

The agency has amended the following rules as proposed:

17.8.1214 REQUIREMENTS FOR AIR QUALITY OPERATING PERMIT CONTENT RELATING TO THE PERMIT SHIELD AND EMERGENCIES

17.8.1224 ADDITIONAL REQUIREMENTS FOR OPERATIONAL FLEXIBILITY AND AIR QUALITY OPERATING PERMIT CHANGES THAT DO NOT REQUIRE REVISIONS

Statement of Reasons

The agency has considered the comments and testimony received. A summary of the comments received, and the agency's responses are as follows:

Comment 1: A commenter wanted clarification with the removal of the affirmative defense language, would it remove or abridge a facility's ability to assert any emergency-based defense or other defense to an enforcement action.

Response 1: The affected provisions of ARM Title 17, chapter 8, subchapter 12, ARM 17.8.1201(13), 17.8.1214(5) through (8), and 17.8.1224(6) have been removed from the Title V operating permit program. Therefore, affected facilities holding a Title V operating permit may no longer assert an affirmative defense pursuant to the affected provisions.

However, the provisions of ARM 17.8.110 (Malfunctions) were approved into Montana's SIP on January 24, 2006, and were not identified by EPA under their June 12, 2015, SIP call. Because ARM 17.8.110 does not provide for an automatic exemption (i.e., maintains DEQ's ability to enforce) and does provide for director's discretion, it is DEQ's position that the malfunction rule does not provide for complete affirmative defenses.

Therefore, as applicable, the requirements of ARM 17.8.110 would continue to allow the affected facility to assert such a defense for agency consideration.

Comment 2: A commenter asked if a facility would be eligible for an affirmative defense for exceedance of a non-technology-based limit prior to implementation of the proposed rule, while also stating that the proposed language to be struck in ARM 17.8.1215(5) references an affirmative defense for a noncompliance action.

Response 2: The department appreciates the comment. However, to be aligned with the federal position, the department will move forward with the rulemaking. Affirmative defense provisions were removed from the FIP for the Billings/Laurel Area (90 FR 5695) in January 2025.

Comment 3: A commenter pointed out that the term "emergency" has not been proposed to be removed from its definition in ARM 17.8.1201.

Response 3: The department thanks the commenter for the comment. See Response 1.

Comment 4: A commenter has concerns on the malfunction rule in ARM 17.8.110.

Response 4: The department thanks the commenter for the comment. See Response 1.

Contact

Legal Unit
(406) 444-1388
DEQMAR174@mt.gov

Rule Reviewer

Jonathan Morgan

Approval

Sonja Nowakowski, Director

MONTANA
ADMINISTRATIVE
REGISTER

DEPARTMENT OF LIVESTOCK

NOTICE OF ADOPTION

MAR NOTICE NO. 2025-139.2

Summary

Adoption of NEW RULE 1, NEW RULE 2, and NEW RULE 3 pertaining to public participation

Previous Notice(s) and Hearing Information

On August 8, 2025, the Department of Livestock published MAR Notice No. 2025-139.1 pertaining to the proposed adoption of the above-stated rules in the 2025 Montana Administrative Register, Issue Number 15.

On August 29, 2025, a public hearing was held on the proposed adoption of the rules via the videoconference and telephonic platform.

Final Rulemaking Action – Effective September 27, 2025

ADOPT AS PROPOSED

The agency has adopted the following rules as proposed:

NEW RULE 1 (32.2.103) POLICIES AND OBJECTIVES IN PROVIDING PUBLIC PARTICIPATION IN THE OPERATION OF THE DEPARTMENT OF LIVESTOCK

NEW RULE 2 (32.2.104) GUIDELINES FOR DETERMINATION OF SIGNIFICANT INTEREST TO THE PUBLIC

NEW RULE 3 (32.2.105) NOTICE AND MEANS FOR PUBLIC PARTICIPATION

Statement of Reasons

No comments were received.

Contact

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TTY: (800) 253-4091
Fax: (406) 444-4316

Rule Reviewer

Lindsey Simon, Legal Counsel

Approval

Michael Honeycutt, Executive Officer

MONTANA
ADMINISTRATIVE
REGISTER

DEPARTMENT OF LIVESTOCK

NOTICE OF ADOPTION

MAR NOTICE NO. 2025-302.2

Summary

Amendment of ARM 32.6.715 pertaining to meat inspection label review

Previous Notice(s) and Hearing Information

On August 8, 2025, the Department of Livestock published MAR Notice No. 2025-302.1 pertaining to the proposed amendment of the above-stated rule in the 2025 Montana Administrative Register, Issue Number 15. No public hearing was scheduled or requested.

Final Rulemaking Action – Effective September 27, 2025

AMEND AS PROPOSED

The agency has amended the following rule as proposed:

32.6.715 LABEL REVIEW

Statement of Reasons

No comments were received.

Contact

Lindsey Simon
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Rule Reviewer

Lindsey Simon, Legal Counsel

Approval

Michael Honeycutt, Executive Officer

MONTANA
ADMINISTRATIVE
REGISTER

DEPARTMENT OF LIVESTOCK

NOTICE OF ADOPTION

MAR NOTICE NO. 2025-303.2

Summary

Amendment of ARM 32.2.404 and 32.18.201, adoption of NEW RULE 1, and repeal of ARM 32.18.401 and 32.18.403 pertaining to brand inspection requirements

Previous Notice(s) and Hearing Information

On August 8, 2025, the Department of Livestock published MAR Notice No. 2025-303.1 pertaining to the proposed amendment, adoption, and repeal of the above-stated rules in the 2025 Montana Administrative Register, Issue Number 15. No public hearing was scheduled or requested.

Final Rulemaking Action – Effective September 27, 2025

ADOPT AS PROPOSED

The agency has adopted the following rule as proposed:

NEW RULE 1 (32.18.209) ACCEPTANCE OF ELECTRONIC SIGNATURES

AMEND AS PROPOSED

The agency has amended the following rules as proposed:

32.2.404 BRANDS ENFORCEMENT DIVISION FEES

32.18.201 BRAND INSPECTION

REPEAL

The agency has repealed the following rules as proposed:

32.18.401 BRAND INSPECTION STAMP

32.18.403 QUARTERS TO BE STAMPED

Statement of Reasons

No comments were received.

Contact

Lindsey Simon
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TTY: (800) 253-4091
Fax: (406) 444-4316

Rule Reviewer

Lindsey Simon, Legal Counsel

Approval

Michael Honeycutt, Executive Officer

MONTANA
ADMINISTRATIVE
REGISTER

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

NOTICE OF ADOPTION

MAR NOTICE NO. 2025-157.2

Summary

Amendment of ARM 36.12.101, 36.12.102, 36.12.103, 36.12.115, 36.12.117, and 36.12.1305 and adoption of NEW RULES 1 through 7 pertaining to water right permitting

Previous Notice(s) and Hearing Information

On July 11, 2025, the Department of Natural Resources and Conservation published MAR Notice No. 2025-157.1 pertaining to the public hearing on the proposed amendment and adoption of the above-stated rules in the 2025 Montana Administrative Register, Issue Number 13. A public hearing was held on July 31, 2025.

Final Rulemaking Action – Effective October 1, 2025

ADOPT AS PROPOSED

The agency has adopted the following rules as proposed:

NEW RULE 1 (36.12.124) PUBLIC COMMENT ON A DRAFT PRELIMINARY DETERMINATION

NEW RULE 6 (36.12.814) HEARING AND FINAL ACTION

ADOPT WITH CHANGES

The agency has adopted the following rules with changes from the original proposal, stricken matter interlined, new matter underlined:

NEW RULE 2 (36.12.810) PROJECT COMPLETION NOTICE

(1) For a project completion notice filed after October 1, 2025 ~~an appropriation completed after the effective date of this rule~~, the appropriator must file a correct and complete project completion notice with the department on or before the deadline specified in the permit ~~authorization~~, including any order to reduce or modify the permit pursuant to 85-2-313, MCA, change authorization, or any written extension of time. A correct and complete project completion notice must be on a form provided by the department.

(2) through (3)(c) remain as proposed.

(d) if a permit ~~authorization~~ is reduced or modified following the final decree pursuant to 85-2-313, MCA, a description explaining compliance with the order reducing or modifying the permit;

(e) through (f) remain as proposed.

(4) remains as proposed.

(5) For a project completion notice filed with the department prior to ~~the effective date of this rule~~ October 1, 2025, the department will consider the information required by (3) for a permit or (4) for a change to determine whether the project completion notice includes adequate information.

(6) and (7) remain as proposed.

(8) The department may inspect the completed appropriation any time after a project completion notice is filed. The department will provide appropriators with a minimum of 48-hour notice before an inspection.

(9) If a project completion notice for a permit was verified prior to ~~the effective date of this rule~~ October 1, 2025, and the permit is reduced or modified following final decree pursuant to 85-2-313, MCA, the appropriator is required to file a subsequent project completion notice. Such a subsequent project completion notice is subject to the applicable sections of this rule.

Authorizing statute(s): 85-2-113, 85-2-402, MCA

Implementing statute(s): 85-2-310, 85-2-311, 85-2-312, 85-2-313, 85-2-314, 85-2-315, 85-2-402, MCA

NEW RULE 3 (36.12.811) PERMIT VERIFICATION

(1) The department will conduct a comparative analysis of the information provided in the project completion notice and the permit ~~authorization~~, including any reduction of modification of the permit pursuant to 85-2-313, MCA, to verify whether the appropriation was completed in substantial accordance with the permit ~~authorization~~ and any reduction or modification. The department will review all relevant information within its possession.

(2) remains as proposed.

~~(3) Corrections to legal land descriptions due to improved mapping of township, range, section, and 1/4 section may be considered in substantial accordance with the point of diversion and place of use element(s) of the water right.~~

~~(4)~~(3) The department will evaluate whether the following information identified in the project completion notice is in substantial accordance with the permit ~~authorization~~, including any reduction or modification of the permit pursuant to 85-2-313, MCA:

(a) through (e) remain as proposed.

(f) the point of diversion, which may not be completed outside the legal land description authorized unless the department determines:~~;~~

(i) the point of diversion marked on the project completion map and the map included in the permit file are the same; and

(ii) the legal description in the project completion notice is correct based on improved mapping of the township, range, section, and 1/4 section;

(g) the place of use, which may not be completed outside the legal land description authorized unless the department determines:~~;~~

(i) the place of use marked on the project completion map and the map included in the permit file are the same; and

(ii) the legal description in the project completion notice is correct based on improved mapping of the township, range, section, and 1/4 section;

(h) through (k) remain as proposed.

(5) remains as proposed but is renumbered (4).

Authorizing statute(s): 85-2-113, MCA

Implementing statute(s): 85-2-310, 85-2-311, 85-2-312, 85-2-313, 85-2-314, 85-2-315, MCA

NEW RULE 4 (36.12.812) CHANGE VERIFICATION

(1) The department will conduct a comparative analysis of the information provided in the project completion notice, all relevant information within its possession, and the change authorization to verify whether the appropriation was completed in substantial accordance with the change authorization. ~~The department will not evaluate any elements of the water right not authorized for change. The department will review all relevant information within its possession.~~ The department will evaluate:

(a) those elements of the underlying water right authorized for change;

(b) terms, conditions, restrictions, and limitations of the change authorization;

(c) whether the elements and conditions of the change are in substantial accordance with the final decree pursuant to 85-2-402(9)(a), MCA; and

(d) if applicable, whether the elements of a change authorization for a permit are in substantial accordance with reduction, modification, or revocation of the permit pursuant to 85-2-313, 85-2-314, and 85-2-315, MCA.

(2) remains as proposed.

~~(3) Corrections to legal land descriptions due to improved mapping of township, range, section, and 1/4 section may be considered in substantial accordance with the point of diversion and place of use element(s) of the water right.~~

~~(4)~~(3) The department will evaluate whether the following information identified in the project completion notice is in substantial accordance with the change authorization:

(a) for a change in point of diversion, the flow rate, which may not exceed the authorized amount, and the point of diversion, which may not be completed outside the legal land description authorized unless the department determines:~~;~~

(i) the point of diversion marked on the project completion map and the map included in the change authorization file are the same; and

(ii) the legal description in the project completion notice is correct based on improved mapping of the township, range, section, and 1/4 section;

(b) for a change in place of use, the place of use, which may not be completed outside the legal land description authorized unless the department determines:~~;~~

(i) the point of diversion marked on the project completion map and the map included in the change authorization file are the same; and

(ii) the legal description in the project completion notice is correct based on improved mapping of the township, range, section, and 1/4 section;

(c) for a change in the purpose of use, the completed purpose of use matches the authorized purpose.~~, and the consumptive use volume, which may not exceed the historical consumptive use volume of the water right;~~

(i) The consumptive use volume for the completed use may not exceed the historical consumptive use volume, if any, determined by the change authorization.

~~(i)~~(ii) ~~for~~ For a change in purpose to water marketing, the volume of the water marketing purpose will be limited to the maximum annual use proven by the appropriator.~~;~~

(d) for a change in place of storage or addition of storage, the completed place of storage, which includes:

(i) and (ii) remain as proposed.

(iii) the consumptive use volume, if previously assigned by the department, which may not exceed the authorized amount; and

(iv) and (e) remain as proposed.

(5) remains as proposed but is renumbered (4).

Authorizing statute(s): 85-2-113, 85-2-402, MCA

Implementing statute(s): 85-2-312, 85-2-314, 85-2-315, 85-2-402, MCA

NEW RULE 5 (36.12.813) VERIFICATION DECISION

(1) If, after final decree in the respective administrative basin, the department determines that an appropriation was completed in substantial accordance with a permit ~~authorization~~, including any reduction or modification of the permit pursuant to 85-2-313, MCA, or change authorization, it shall issue a certificate of water right.

(2) If the department determines that an appropriation was not completed in substantial accordance with a permit ~~authorization~~, including any reduction or modification of the permit pursuant to 85-2-313, MCA, or change authorization, the department shall send the completed verification abstract to the appropriator. The verification abstract shall include a statement of the department's proposed action.

(3) Within ~~30~~ 60 days of issuance of the verification abstract, the appropriator may:

(a) and (b) remain as proposed.

(4) If the department does not receive notice of the appropriator's decision in (3) within ~~30~~ 60 days of issuance of the verification abstract, the department will proceed with the proposed action in (2).

(a) and (b) remain as proposed.

(5) through (7) remain as proposed.

Authorizing statute(s): 85-2-113, 85-2-402, MCA

Implementing statute(s): 85-2-313, 85-2-314, 85-2-315, 85-2-402, MCA

NEW RULE 7 (36.12.2102) TEMPORARY LEASE OF A WATER RIGHT

(1) An appropriator proposing to temporarily lease a water right pursuant to 85-2-428, MCA ~~[SB 178 (2025)]~~, must file an application with the department. An application may be filed only by the owner of record of the water right proposed for lease.

(2) The applicant must provide evidence that the water right has been used within the five years prior to the date an application is filed. Evidence of use under this section includes, but is not limited to the following:

(a) and (b) remain as proposed.

(c) power bills or other records that document pump usage~~,~~ if the conveyance system includes a pump;

(d) and (e) remain as proposed.

(3) If the department previously identified the historical consumptive use of the water right proposed for lease as part of an earlier change authorization, the department may reuse that calculation when reviewing an application for a temporary lease. If the historical consumptive use of the water right proposed for lease has not been calculated by the department through a previous change application, the department will use the following standards for estimating consumptive use of the water right when reviewing an application for temporary lease:

(a) the consumptive volume for irrigation is the lesser of:

(i) crop consumptive use as calculated using the methodology from ARM 36.12.1902(14) through (16)(f). This methodology will use the priority

date of the right being leased to determine the applicable county management factor; or

(ii) remains as proposed.

(b) through (f) remain as proposed.

(4) An application must include a statement of potential adverse effects and description of the planned actions the applicant will take which demonstrate no adverse effect on other water rights.

(a) remains as proposed.

(b) The applicant's description of planned actions must document the effects to other water rights including the following:

(i) remains as proposed.

(ii) the effect that ~~discontinued~~ ceased use of all or a portion of the leased water right at the place of use will have on other water users; and

(iii) remains as proposed.

(5) and (6) remain as proposed.

Authorizing statute(s): 85-2-113, MCA

Implementing statute(s): 85-2-428, MCA ~~[SB 178 (2025)]~~

AMEND AS PROPOSED

The agency has amended the following rules as proposed:

36.12.115 WATER USE STANDARDS

36.12.117 OBJECTION TO APPLICATION

AMEND WITH CHANGES

The agency has amended the following rules with the following changes from the original proposal, stricken matter interlined, new matter underlined:

36.12.101 DEFINITIONS

In addition to definitions provided for in 85-2-102, MCA, and unless the context requires otherwise, to aid in the implementation of the Montana Water Use Act and as used in these rules:

(1) through (54) remain as proposed.

(55) "Project completion notice" means a notice by the appropriator on a form provided by the department that the project works are completed, and water is being appropriated in substantial accordance with the terms of the permit ~~authorization~~, including any reduction or modification of the permit pursuant to 85-2-313, MCA, or change authorization.

(56) through (68) remain as proposed.

(69) "Substantial accordance" means that an appropriation has been completed in compliance with the terms of a permit ~~authorization~~, including any reduction or modification pursuant to 85-2-313, MCA, or change authorization. Substantial accordance may allow for minor deviation from those terms if the department determines the deviation will not cause injury to other appropriators or otherwise does not require a change authorization.

(70) through (77) remain as proposed.

(78) "Verification" or "verify" means the process used by the department to determine whether completion of an appropriation of water and a project completion notice are in substantial accordance with the terms, conditions, restrictions, and limitations of the permit ~~authorization~~, including any reduction or modification pursuant to 85-2-313, MCA, or change authorization.

(79) through (85) remain as proposed.

Authorizing statute(s): 2-4-201, 85-2-113, 85-2-308, 85-2-370, MCA

Implementing statute(s): 85-2-113, 85-2-301 through 85-2-319, 85-2-321 through 85-2-323, 85-2-329 through 85-2-331, 85-2-335 through 85-2-338, 85-2-340 through 85-2-344, 85-2-351, 85-2-360, 85-2-361, 85-2-362, 85-2-364, 85-2-368, 85-2-370, 85-2-401, 85-2-402, 85-2-407, 85-2-408, 85-2-410 through 85-2-413, 85-2-418, MCA

36.12.102 FORMS

(1) The following necessary forms for implementation of the act and these rules are available from the Department of Natural Resources and Conservation, P.O. Box 201601, Helena, Montana 59620-1601 and its Water Resources regional offices, or on the department's website. The department may revise as necessary the following forms to improve the administration of these rules and the applicable water laws:

(a) through (qq) remain as proposed.

(rr) Form No. 670, "~~Waiver of Adverse Effect~~ Consent to Approval of Application," which must be submitted for a ~~waiver~~ consent to approval filed under ~~[SB 190 (2025)]~~ 85-2-311 or 85-2-402, MCA.

Authorizing statute(s): 85-2-113, MCA

Implementing statute(s): 85-2-113, 85-2-302, 85-2-306, 85-2-307, 85-2-311, 85-2-316, 85-2-402, 85-2-424, 85-2-428, 85-2-429, 85-20-401, MCA~~; [SB 178 (2025), HB 432 (2025)]~~

36.12.103 FORM AND SPECIAL FEES

(1) remains as proposed.

(2) The department will assess the following filing fees:

(a) through (l) remain as proposed.

(m) $100, plus $20 for each water right or authorized notice of intent to appropriate groundwater transferred after the first water right, for a Water Right Ownership Update, Form No. 608. The total amount shall not exceed $600. No fee is required for removing a deceased person from a record of ownership;

(n) through (hh) remain as proposed.

(3) There shall be no fees charged for filing the following forms:

(a) through (j) remain as proposed.

(k) Form No. 670, ~~Waiver of Adverse Effect~~ Consent to Approval of Application.

(4) remains as proposed.

Authorizing statute(s): 85-2-113, MCA

Implementing statute(s): 85-2-113, 85-2-302, 85-2-306, 85-2-307, 85-2-311, 85-2-312, 85-2-314, 85-2-402, 85-2-426, 85-2-428, 85-2-429, 85-2-436, 85-20-401, MCA~~; [SB 178 (2025), HB 432 (2025), HB 441 (2025), HB 681 (2025)]~~

36.12.1305 FILING A CHANGE APPLICATION AND FORM ACCEPTANCE

(1) through (3) remain as proposed.

(4) For proposed water right changes with both temporary and permanent components, one application form may be submitted. If an applicant chooses to submit a single application which includes a permanent and temporary change, the application must identify a single project completion date.

(5) through (8) remain as proposed.

Authorizing statute(s): 85-2-113, 85-2-302, MCA

Implementing statute(s): 85-2-302, 85-2-402, MCA

Statement of Reasons

The agency has considered the comments and testimony received. A summary of the comments received, and the agency's responses are as follows:

Comment 1: Three commenters questioned the department's authority to adopt the definition of "aquifer system" in ARM 36.12.101.

Response 1: The department has general rulemaking authority to adopt rules necessary to implement and carry out the purposes of the Water Use Act. 85-2-113(2), MCA. The term "aquifer" is used extensively throughout the Water Use Act but not statutorily defined. The department is proposing to amend the definition of "source aquifer" and add the definitions of "aquifer" and "aquifer system" to clarify how the department determines the source of supply and the parameters of an aquifer or aquifer system for groundwater appropriations. (For example: 85-2-306, 85-2-311(1), and 85-2-361, MCA.)

Comment 2: Two commenters appreciated the inclusion of definitions for "aquifer" and "aquifer system" in ARM 36.12.101 and felt that these definitions improve clarity and provide

scientifically credible definitions. One of the commenters felt the definitions provided in the rule notice are necessary due to passage of statutory changes in 85-2-313, MCA, as amended in HB 441 (2025).

Response 2: The department appreciates the support for the proposed aquifer and aquifer system definitions.

Comment 3: Four commenters proposed alternative definitions for "aquifer system" in ARM 36.12.101. Three commenters asserted the proposed definition(s) created ambiguity and recommended that the department adopt the National Ground Water Association Compendium of Hydrogeology definition of aquifer system. The fourth commenter recommended the following amendments for clarity: (6) "Aquifer" means a geologic structure or unit whose horizontal and vertical extents could be limited by formation contacts, faults, surface water bodies, and/or less permeable materials and that contains saturated and permeable material capable of yielding water in usable quantities; (7) "Aquifer system" means a series of hydraulically connected aquifers ~~whose horizontal and vertical extents could be limited by formation contacts, faults, surface water bodies, and less permeable materials~~.

Response 3: The amendment to the definition of "source aquifer" and addition of definitions for aquifer and aquifer system are included to clarify how the department determines the source aquifer and the parameters of an aquifer or aquifer system when evaluating groundwater appropriations.

Source aquifer, as currently defined in ARM 36.12.101, means "the specific groundwater source from which water is diverted for a beneficial use." Groundwater source can be broadly defined and is without specificity. The proposed amendment to the definition of "source aquifer" and the proposed definitions of "aquifer" and "aquifer system" are meant to objectively define what constitutes a groundwater source, using well known groundwater terms and concepts that align with the department's technical and scientific practices.

The department's proposed definition of aquifer system already incorporates the concepts reflected in the National Ground Water Association Compendium of Hydrogeology definition and alternate definitions proposed by commenters' recommendation. The department's proposed definitions provide additional guidance on what factors may limit or bound aquifers that are connected through leakage or hydraulically connected aquifers. Moreover, the National Ground Water Association Compendium of Hydrogeology definition includes the term "scale of interest" which is not scientifically defined, is ambiguous, and could be construed to identify smaller or larger areas and aquifer systems than what would be considered scientifically reasonable.

Comment 4: One commenter felt the modification in ARM 36.12.101 to the definition of "possessory interest" does not resolve the department's alleged practice of refusing to accept an applicant's signature on an application as proof of possessory interest, requiring additional proof, and requiring more information on an application than is required to establish possessory interest.

Response 4: The amendment to the definition of "possessory interest" adds the terms "possess" and "use" to the first sentence of the definition to be consistent with the second

sentence of the definition. It does not substantively alter the definition. The comment is critical of the department's alleged application of the possessory interest criterion rather than the substance of the proposed amendment and exceeds the scope of the proposed amendment.

Comment 5: One commenter questions why in ARM 36.12.101 the term "permit authorization" is used for the first time in the definition of "project completion notice."

Response 5: The department agrees. The rules are amended to strike the term "authorization" following the term "permit" throughout.

Comment 6: One commenter states that in ARM 36.12.101 the term "verification" or "verify" should not be used as it has been used to describe different processes in the past. The commenter suggests using a different term such as validation, authentication, or reconciliation.

Response 6: The department recognizes that the history of terminology used is complicated. HB 441 (2025) was enacted by the Montana Legislature to provide a process "to verify whether the appropriation was completed in substantial accordance with the terms" of a permit or change in appropriation right. The proposed definition of "verification" or "verify" is consistent with the terminology and process set forth in HB 441.

Comment 7: Three commenters supported the new forms and titles used for the new forms in ARM 36.12.102.

Response 7: The department appreciates the support for the forms and titles. Upon further review of the forms and titles, ARM 36.12.102(1)(rr) and ARM 36.12.103(3)(k) are amended to strike the "Waiver of Adverse Effect" form title and replaced with "Consent to Approval of Application" to better align the name of the form with the statutory language in SB 190 (2025).

Comment 8: Two commenters expressed concerns in ARM 36.12.103(2)(g) about the fee associated with Form 602I. Both commenters identified this as being a 160% increase from the current cost. Both commenters recognized the need to fund staff associated with bill implementation but wanted to express concern over the economic impact to water users.

Response 8: The department does not take setting fees lightly as it recognizes the financial burden that can be imposed on water users. HB 681 (2025) provides for a 10-business day statutory timeline in which the department must complete a deficiency review and authorize or deny a correct and complete Notice of Intent to Appropriate Groundwater filing. The legislature authorized the department to hire additional staff necessary to implement the new process and timelines. The bill sponsor and finance and claims committee determined that a fee increase was necessary to fund additional staff necessary to complete the work within the statutory timelines set by the bill. Fees were calculated to ensure that the state special revenue account would receive enough funding to cover personnel services costs for the new positions necessary to process Notice of Intent to Appropriate Groundwater forms based on average annual submittals under the exception to the permitting process in 85-2-306, MCA.

Comment 9: One commenter supported the proposed fees in ARM 36.12.103(2)(cc) associated with new Form 650.

Response 9: The department appreciates the support of the proposed fees.

Comment 10: One commenter supported the department's proposed fee schedule included in the rule proposal, including new fees for forms established in ARM 36.12.102 as a result of legislation in the 2025 legislative session and revisions to existing fees for consistency. The commenter recognized that fee increases are necessary to generate adequate state special revenue to implement these legislative changes, including staffing and operational expenses associated with implementation. The commenter also referenced that the increases to fees were included in discussions at both the Comprehensive Water Review Stakeholder Work Group and during appropriations committee discussions in both the House and Senate and that it was widely supported in all of these venues that increases to fees would be required to generate state special revenue to pay for implementation.

Response 10: The department appreciates the support of the proposed fees.

Comment 11: One commenter raised a concern on ARM 36.12.103(2)(m) that additional clarification is needed related to fees associated with ownership updates to clarify that the filing of an ownership update for notice of intent to appropriate is treated the same as for a water right. The commenter recommended adding the italicized text to (2)(m):

"(m) $100, plus $20 for each water right *or authorized notice of intent to appropriate groundwater* transferred after the first water right, for a Water Right Ownership Update, Form No. 608. The total amount shall not exceed $600. No fee is required for removing a deceased person from a record of ownership."

Response 11: The department agrees that additional clarification is needed regarding ownership updates for authorized Notices of Intent to Appropriate. ARM 36.12.103(2)(m) is amended to include the recommended text.

Comment 12: Two commenters supported the change to domestic use standards in ARM 36.12.115.

Response 12: The department appreciates the support for the update to the domestic use standards in ARM 36.12.115.

Comment 13: One commenter recommended the department provide examples or further explanation of what constitutes "probable, believable facts sufficient to support a reasonable legal theory" as referenced in ARM 36.12.117. The commenter identified that this is not easily understood by lay water users who may need to defend their rights and recommended that a standardized objection template or guidance document would be extremely helpful in ensuring complete and valid submissions and an efficient process.

Response 13: Pursuant to statute, a valid objection must be "correct and complete," 85-2-308 and 85-2-309, MCA. A correct and complete objection must include "substantial credible information" which requires "probable, believable facts sufficient to support a reasonable legal theory upon which the department should proceed with the action requested." 85-2-102(9) and (26), MCA. The phrase "probable, believable facts sufficient to support a reasonable legal theory . . . " was incorporated into ARM 36.12.117 to align with the statutory requirements for an objection and reduce the number of deficient objections received by the department. The proposed amendment does not impose a new legal requirement on an objector. Whether an

objection satisfies this standard is a threshold determination made by the department on a case-by-case basis.

Comment 14: One commenter appreciated the flexibility outlined in ARM 36.12.117(16), which allows for individual agreements while maintaining protections for water rights. This is a commendable approach.

Response 14: The department appreciates the support for these changes.

Comment 15: One commenter appreciated the language changes included in ARM 36.12.117, including the update in the rules to allow for electronic communications.

Response 15: The department appreciates the support for these changes.

Comment 16: Two commenters asserted that 15 business days may not be enough time to respond to an Objection Deficiency Notice as provided by ARM 36.12.117(10). One of the commenters raised concern that the 15-business-day timeline could violate a water user's due process rights because it provides insufficient time for average objectors to respond to Objection Deficiency Notices with the types of "probable believable facts" requested by the department.

Response 16: The proposed amendments do not alter the existing timelines. The timeline for deficiency responses was modified from 15 days to 15 business days in MAR Notice No. 36-22-219 in 2023, effectively giving objectors an additional week in which to prepare and submit their deficiency response. The current 15 business day timeline reflects that objection review, deficiency letters, deficiency responses, validity rulings, and scheduling a hearing date must all be completed within the 90 days of the objection deadline pursuant to 85-2-309, MCA.

Although the current amendments do not extend the 15-day timeline, the department's proposed amendment to this rule allows objectors to maximize the deficiency response timeframe through electronic communication, including notification of a deficiency and submittal of a response. The proposed changes provide a more efficient process for deficiency notifications and responses, allowing for immediate knowledge of deficiencies and a greater response period. This should benefit most objectors in providing more opportunity to develop a response within the existing 15-day deficiency response period.

Comment 17: One commenter supported the changes to ARM 36.12.117 concerning filing objections to applications. The commenter identified the current process of using a postmark date to assess the timeliness of filing an objection has become obsolete, and the utilization of digital filing brings the process into the modern era for all water users. The commenter also supported the changes to correct and complete determination that supports more defensible valid objections by requiring an objector to include both a set of "probable and believable facts" as well as requiring that those facts "support a reasonable legal theory." The commenter also supported applying the existing objection rules to HB 432 (2025) and SB 178 (2025) implementation to support consistency in objection requirements and processes.

Response 17: The department appreciates the feedback on the objection process. However, the "probable, believable facts sufficient to support a reasonable legal theory . . . " language

added to ARM 36.12.117(8)(f) does not impose new legal requirements on an objection. See Response 13.

Comment 18: One commenter raised concern with the change in language of ARM 36.12.117 on the objection rule that instead of "facts indicating that the application does not meet one or more of the applicable criteria" and to merely "specifically describe why or how one or more of the criteria are not met" that objectors must provide "*probable, believable facts sufficient to support a reasonable legal theory* that the application does not meet one or more of the applicable criteria[.]" The commenter requests that ARM 36.12.117(8)(f), formerly (9)(f), remain unchanged.

Response 18: The "probable, believable facts sufficient to support a reasonable legal theory . . . " language added to ARM 36.12.117(8)(f) does not impose new legal requirements on an objection. See Response 13.

Comment 19: Two commenters support the modification to ARM 36.12.1305 to allow one application form when a change involves both temporary and permanent components. One commenter requested that the department be specific about what components of the change are required to be completed for notice of completion and/or if two different notice of completion dates will be identified.

Response 19: The department appreciates the support from the commenters on the modification to ARM 36.12.1305. The department agrees that the project completion notice requirements for change applications with temporary and permanent components needs clarification. ARM 36.12.1305(4) is amended to include the following statement: "If an applicant submits a single application that includes a permanent and temporary change, the application must identify a single project completion date."

Comment 20: One commenter supported the elimination of all rules under ARM 36.12.1305(8) to align with the new stockwater permit change exemption.

Response 20: The department appreciates this support.

Comment 21: For NEW RULE 1, one commenter questions the need for separate public comments on each water right application, suggesting instead that one submission could specify which rights it addresses. They note that duplicating comments is burdensome but appreciate the allowance for joint comments by co-owners.

Response 21: Public comment must be tied to a specific application to ensure a clear record for the water right file. As a point of clarification, NEW RULE 1 requires a public comment for each individual "water right application." If an application includes multiple water rights, only one comment is required because all water rights are part of the same application.

Comment 22: One commenter supports NEW RULE 1 as a helpful clarification that strengthens the public comment process by promoting consistency, completeness, and early issue identification, aligning with HB 114 (2023). The comment raised similar concerns about NEW RULE 1(2) and (3), to those raised in Comment 21.

Response 22: The department appreciates this comment. See Response 21.

Comment 23: Three commenters express concern that use of the term “appropriation” is too broad and question whether NEW RULE 2 applies to Form 602, Form 605, or changes approved under an exception.

Response 23: NEW RULE 2 does not apply to exceptions to the permitting process filed under 85-2-306, MCA. NEW RULE 2(1) clearly states that it applies to the deadlines specified in the permit or change authorization. A “change authorization” as defined by rule is limited to 85-2-402, MCA. A notice of completion is filed before a stock permit is issued pursuant to 85-2-306, MCA. Therefore, a stock permit does not include a completion deadline and falls outside the scope of NEW RULE 2.

Comment 24: For NEW RULE 2, a commenter asks what happens to the unused volume if an appropriation holder fails to perfect the full volume originally proposed.

Response 24: HB 441 (2025) requires the department to verify the extent to which an appropriation was completed in substantial accordance with the terms of the permit or change authorization. NEW RULE 2 itemizes the information an appropriator must provide on the project completion notice regarding completion of the appropriation. If the appropriation was not completed for the full volume authorized and there is an unused volume, the department may propose to reduce the permit or change authorization. NEW RuULES 3, 4, and 5 provide the procedure for a proposed reduction or modification.

Comment 25: One commenter is concerned that the phrase “other information deemed necessary by the department” in NEW RULE 2(3)(f) and (4)(e) is vague and creates uncertainty for applicants about what additional information may be required.

Response 25: The information itemized in NEW RULE 2 reflects the type of information the department has required of an appropriator either through a form or through a field investigation to determine whether an appropriation was completed in substantial accordance with the permit or change authorization. Prior to 1992, the department obtained this type of information through a mandatory field investigation. The 1992 amendments to 85-2-315, MCA, made field investigations optional rather than mandatory. Accordingly, the department developed a more robust project completion notice form that requested information that was historically obtained through field investigation to reduce staff time and expense involved in field investigations.

NEW RULE 2(3)(f) and (4)(e) provide the department with the ability to request additional information on a case-by-case basis that is deemed necessary for verification. These subsections ensure that the department has the flexibility to request additional information from the appropriator in some circumstances to ensure the department has adequate information and to potentially avoid the time and expense of conducting a site investigation for more complex appropriations.

Comment 26: Several commenters assert that NEW RULE 2(5) exceeds the department authority and could be applied retroactively. The commenters question how the department can require resubmission of a notice of completion that complied with the rules and practices in place at the time the project completion notice was originally filed. One of those commenters is concerned the department will reopen and potentially revoke or alter thousands of long-

completed permits and change authorizations dating back to 1973, despite applicants having complied with the rules in place at the time. They assert this retroactive review creates vague new requirements, undermines finality for water users, and exceeds the authority granted under HB 441 (2025) and the Montana Administrative Procedure Act. The comment asserts that notices of completion were not always required or did not require the level of detail required in NEW RULE 2. One commenter asserts that NEW RULE 2(5) subjects permit holders to unnecessary financial burden by forcing them to revisit previously finalized decisions.

Response 26: Although the statutory requirements regarding the contents of a project completion notice and verification of a permit or change authorization have evolved over time, to the department's knowledge, all permits and change authorizations issued by the department include written "terms, conditions, restrictions, and limitations" that required the appropriator to file a written project completion notice with the department. 85-2-312 and 85-2-402, MCA. Statute has always authorized the department to modify, reduce, or revoke a permit or change authorization that was not completed in compliance with the permit or change authorization. 85-2-311, -312, -314, and -402, MCA.

The information itemized in NEW RULE 2(3) and (4) reflects the type of information the department has required of an appropriator either through a form or through a field investigation to determine whether an appropriation was completed in substantial accordance with the permit or change authorization. Prior to 1992, the department obtained this type of information through a mandatory field investigation. The 1992 amendments to 85-2-315, MCA made field investigations optional rather than mandatory. Accordingly, the department developed a more robust project completion notice form that requested information that was historically obtained through field investigation to reduce the staff time and expense involved in field investigations. NEW RULE 2(5) clarifies that the department may need additional information, consistent with past practice, on projects for which a project completion notice was filed prior to adoption of NEW RULE 2. If, as alleged by the comment, there are permits or change authorizations for which a project completion notice was not required by statute or as a condition of the authorization, NEW RULE 2(5) does not apply.

NEW RULE 2 does not retroactively change the burden on the appropriator. The department has always been authorized to obtain from an appropriator the necessary information to verify the appropriation was completed in compliance with the terms and conditions of the permit or change authorization. NEW RULE 2 simply provides the procedure for obtaining the requisite information. To the extent an appropriator disagrees with the manner in which a permit or change authorization is verified, NEW RULES 3, 4 and 5 provide the procedure pursuant to which the department verifies the project completion notice and notifies an appropriator of any proposed reduction, modification, or revocation of a permit or change authorization; and NEW RULE 6 provides the procedure pursuant to which an appropriator may show cause why the proposed action should not be taken consistent with the due process requirements of 85-2-314, MCA. These procedures do not retroactively impair vested rights.

Comment 27: One commenter suggests adding a notice requirement under NEW RULE 2(8), recommending 24 to 48 hours' notice to landowners before site entry so they can be present and assist with inspections.

Response 27: The department agrees. NEW RULE 2(8) is amended to include a 48-hour notice prior to land entry.

Comment 28: One commenter questions why NEW RULE 2(9) requires filing a new project completion notice instead of simply adjusting verified parameters under 85-2-313, MCA. They note that older notices lacked detailed information, making it difficult for current owners to comply decades later. They emphasize that HB 441 was intended to give water users and permit holders finality.

Response 28: A permit modified or reduced pursuant to 85-2-313, MCA, may be subject to new terms and conditions, or may require alterations to the way the permit was completed. NEW RULE 2(9) requires a new project completion notice to be filed to ensure that adequate information regarding compliance with any modification or reduction is provided. If there are elements of the prior project completion notice that do not require changes to comply with the modification or reduction, the appropriator may incorporate that information into the new project completion notice.

Comment 29: One commenter supported the streamlined approach in NEW RULE 2 but expressed concern with NEW RULE 2(8). They recommend setting a 30-day inspection deadline (with extensions for weather) to protect property rights and prevent perceptions of unlimited access, which could undermine landowner trust in the department.

Response 29: A time limit is not feasible given the current status of provisional permits, final decrees, and project completion notices. In most cases, permits and change authorizations will not be verified until after final decree in a basin. This ensures that the petition process under 85-2-313, MCA, will be completed for permits and changes on those permits, and ensures that erification of changes on claims is consistent with adjudication of existing rights in the final decree. Accordingly, project completion notices have been and will continue to be filed long before final decree is issued triggering the verification process. Requiring a field inspection to be completed within 30 days of filing a project completion notice would foreclose field inspections in most cases.

Comment 30: One commenter generally supports NEW RULE 2 on project completion notices as drafted, while noting that some stakeholders seek clearer expectations. They are willing to work with the department on any needed clarifications.

Response 30: The department appreciates the commenter's support for NEW RULE 2 and the willingness to work with the department.

Comment 31: One commenter raises questions on NEW RULE 2(1) about what "completed after the effective date" means, noting uncertainty around permits or changes that are partially complete, have submitted but unreviewed notices, or missed deadlines. They caution this could create inconsistent treatment across different time periods (pre-1992, 1992 through 2025, post-2025).

Response 31: The department agrees with the commenter. NEW RULE 2(1) is amended to read "For a project completion notice filed after October 1, 2025, the appropriator must file a correct and complete project completion notice[.]"

Comment 32: The commenter asks whether NEW RULE 2 applies to permits or changes where a project completion notice has been filed but not yet reviewed by the department.

Response 32: This situation is addressed in NEW RULE 2(5).

Comment 33: A commenter asks if NEW RULE 2 applies to permits or changes that were completed before the project completion notice deadline but where no PCN has been filed yet.

Response 33: NEW RULE 2(1) and (3) or (4) apply to project completion notices filed after the effective date of the rule. A project completion notice must be filed before a permit or change authorization is verified by the department.

Comment 34: The commenter asks whether NEW RULE 2 applies to permits or changes where the PCN deadline has passed, no notice was filed, but the project was fully or partially completed.

Response 34: NEW RULE 2 does not address the situations proposed by the commenter. Those situations are addressed in 85-2-312, MCA.

Comment 35: The commenter questions whether NEW RULE 2 creates a third category of permits/changes (pre-1992, 1992 through 2025, and post-2025), leading to inconsistent rules across time periods.

Response 35: NEW RULE 2 ensures that the information used to evaluate whether an appropriation is completed in substantial accordance with a permit or change authorization is consistent and satisfies the statutory requirements for verification and issuance of a certificate of water right pursuant to 85-2-313, 85-2-315, and 85-2-402, MCA, regardless of when the notice of completion is filed. For additional explanation, see Response 26.

Comment 36: One commenter believes NEW RULE 2(2) is unclear and should be revised to state "If one or more water rights have multiple change authorizations…" to better reflect the intended meaning.

Response 36: NEW RULE 2(2) provides that if there are multiple change authorizations for water rights that have the same project completion date, a single project completion notice can be filed so the changes can be verified as a single project. This is necessary because there could otherwise be conflicting elements on the different changes which could not have all been completed.

Comment 37: One commenter asserts that NEW RULE 2(3)(d) is problematic because a project completion notice deadline typically occurs before a final decree is issued, meaning reductions or modifications under 85-2-313, MCA, could happen years later. They recommend adding language to clarify how the department will review PCNs in relation to the final decree or petition process.

Response 37: The department recognizes the complexity created by different timelines applicable to project completion notice deadlines, final decree issuances, and subsequent

verification. With limited exceptions, the department will review project completion notices for permits (and change authorizations on permits) after final decree and any applicable modification or reduction pursuant to 85-2-313, MCA. The department will review project completion notices for change authorizations on existing water rights after final decree of the underlying water right.

Comment 38: One commenter questions how NEW RULE 2(5) applies to projects that are completed but a project completion notice has not been filed. They suggest revising the language to read: "For permits/changes with PCN deadlines prior to the effective date of this rule…" to provide clarity.

Response 38: NEW RULE 2(5) only applies to project completion notices filed before the effective date of the rule. If a project completion notice was not filed before the effective date of the rule, the appropriator must comply with NEW RULE 2(1) and (3), or (4).

Comment 39: One commenter notes that under NEW RULE 2(9), if a permit is later reduced or modified, the appropriator must file another project completion notice. They suggest adding a requirement for the department to notify the permittee and set a filing deadline for this subsequent project completion notice.

Response 39: A department determination to reduce or modify a permit pursuant to 85-2-313, MCA, will include a deadline for filing a project completion notice.

Comment 40: One commenter is concerned that NEW RULE 3(2) and NEW RULE 4(2) could cause confusion over who determines which water use standards apply. They suggest creating an index or catalogue of historical water use standards to provide clarity for both permit holders and the department.

Response 40: The department recognizes that there is potential confusion regarding past historical standards. NEW RULE 3(2) simply confirms the department will adhere to the standards of a permit or change as they were authorized. The standards used at the time of authorization are made clear in each permit or change authorization decision document. If a decision document was not issued by the department, the standards used will still be available in the water right application file.

Comment 41: One commenter recommends revising NEW RULE 3(3) and NEW RULE 4(3) so that corrections to legal land descriptions from improved mapping "will/shall" be considered, rather than the discretionary "may" be considered.

Response 41: In most instances, whether a correction to the legal land description is due to improved mapping will be readily apparent, and the department will have the discretion under the proposed rule to determine whether the corrections are in substantial accordance. This discretion is necessary to resolve circumstances such as where there is a dispute regarding whether the correction is based on improved mapping, or where the correction calls into question the adequacy of the notice of the permit or change application. Accordingly, use of the term "may" is appropriate to reflect the department discretion to resolve corrections to the legal land description on a case-by-case basis.

Based on Comments 41, 42, and 47, NEW RULE 3(3) and NEW RULE 4(3) have been deleted, and the department's discretion to consider corrections to legal descriptions based on improved mapping is incorporated into renumbered NEW RULE 3(3)(f) and (g) and NEW RULE 4(3)(a) and (b) respectively. See Responses 42 and 47.

Comment 42: One commenter argues that NEW RULE 3(4) and NEW RULE 4(4) conflict with (3) of each respective rule and the required level of legal land description is ambiguous (e.g., section vs. quarter-quarter-quarter). They warn that this inconsistency could give some applicants more flexibility than others when relocating points of diversion, places of use, or place of storage (NEW RULE 3(4)(g) and NEW RULE 4(4)(d)).

Response 42: The department agrees that the relationship between NEW RULE 3(3) and (4) and the relationship between NEW RULE 4(3) and (4) is confusing. NEW RULE 3(3) is deleted and NEW RULE 3(4)(f) and (g) are amended for clarification and renumbered NEW RULE 3(3)(f) and (g). NEW RULE 4(3) is deleted and NEW RULE 4(4)(a) and (b) are amended for clarification and renumbered NEW RULE 4(3)(a) and (b).

Renumbered NEW RULES 3(3)(f) and (g) and 4(3)(a) and (b) allow the department to consider corrections to the legal land description of the point of diversion or place of use to be in substantial accordance with the permit or change authorization if the legal land description in the project completion notice does not match the legal land description in the permit or change authorization, but the point of diversion and place of use shown on the project completion map are in the correct location and were completed in the location as marked on the map included with the permit or change application. This is intended to address infrequent occurrences where the point of diversion and place of use were completed in the correct location, but due to mapping errors (usually low-quality maps or near 1/4 section boundaries), the legal land description applied for in the permit or change authorization is incorrect.

The qualifiers in renumbered NEW RULES 3(3) and 4(3) clarify the maximum extent of the department's discretion to determine what constitutes substantial accordance. Substantial accordance allows for minor deviations that do not cause injury or necessitate a change authorization. ARM 36.12.101(69).

Comment 43: One commenter suggests clarifying NEW RULE 3(4)(j) so that if consumptive use was not analyzed in the original permitting process, it will not be newly imposed or defined during verification.

Response 43: NEW RULE 3(4)(j) applies to a permit that relies on mitigation. In these cases, the permit may not exceed the consumptive use authorized because the mitigation component was evaluated for that specific consumptive use and if the consumptive use were to be exceeded, the mitigation would not be adequate.

Comment 44: One commenter had no specific feedback on NEW RULE 3 and expressed appreciation for the clarity in that rule.

Response 44: The department appreciates the feedback.

Comment 45: Commenters generally support NEW RULE 3 on permit verification as drafted under HB 441 (2025) but note that some stakeholders want clearer expectations—particularly

on the required level of detail in legal descriptions and whether corrections are discretionary or mandatory. They offer to work with the department on clarifications.

Response 45: The department appreciates the commenters' support for NEW RULE 3 and the willingness to work with the department.

Comment 46: One commenter recommends adding a specific timeframe for the department to process project completion notices (PCNs) under NEW RULES 3 and 4 on permit and change verification.

Response 46: A specific timeframe to process a project completion notice limit is not feasible given status of provisional permits, final decrees, and project completion notices. In most cases, permits and change authorizations will not be verified until after final decree in a basin. This ensures that the petition process under 85-2-313, MCA, will be completed for permits (and changes on those permits) and ensures verification of changes on claims is consistent with adjudication of existing rights in the final decree. Accordingly, project completion notices have been and will continue to be filed long before final decree is issued triggering the verification process.

Comment 47: One commenter argues that NEW RULES 3 and 4 are inconsistent and overly strict. They allege a conflict between allowing projects in "substantial accordance" (minor deviations allowed) and prohibiting anything "outside" authorized parameters. Because water use and project design often change slightly in practice, strict compliance would create unnecessary difficulties, costs, and repeated applications. They recommend allowing reviewers discretion to judge whether deviations materially affect other users and suggest using additional public notice rather than requiring new applications when projects differ in non-substantive ways. They also highlight challenges with defining "historical use" for new applications in such cases.

Response 47: NEW RULE 3(3) is deleted and NEW RULE 3(4)(f) and (g) are amended for clarification and renumbered NEW RULE 3(3)(f) and (g). NEW RULE 4(3) is deleted and NEW RULE 4(4)(a) and (b) are amended for clarification and renumbered NEW RULE 4(3)(a) and (b).

NEW RULES 3 and 4 are consistent with 85-2-311, 85-2-312, 85-2-315, and 85-2-402, MCA, and the definition of "substantial accordance," which allows for minor deviations that do not cause injury or necessitate a change authorization. ARM 36.12.101(69). See Response 42 for an explanation of renumbered NEW RULE 3(3)(f) and (g) and renumbered NEW RULE 4(3)(a) and (b).

If the department determines a permit or change was not completed in substantial accordance, NEW RULE 5(3) allows the appropriator to provide a written plan to bring the permit or change authorization into substantial accordance. The written plan may include steps to file a change application or an additional permit to bring the water use into compliance with the Water Use Act and thus bring the specific permit or change into substantial accordance with the terms of the authorization. The department will suspend action on the verification of the permit or change authorization for up to two years to allow the appropriator time to execute and complete their compliance plan.

Comment 48: One commenter recommends clarifying NEW RULE 4(4)(c) and (d)(iii) so that consumptive use limitations apply only when they were included in the original change authorization, not imposed retroactively.

Response 48: The department agrees. The department proposes to modify NEW RULE 4(4)(c) and (d) to account for situations in which consumptive use was not a condition, limitation, or restriction of the change authorization.

Comment 49: One commenter points out for NEW RULE 4 that because conversion of irrigation method is exempt from change authorization under 85-2-102 (7) (b), MCA, unique situations may arise. For instance, if a landowner changes irrigation methods outside a prior place-of-use change, consumptive use could increase compared to the historic use relied on in that earlier authorization. They ask whether the department would then find the project out of substantial accordance due to exceeding consumptive use.

Response 49: The purpose of NEW RULE 4 is to outline what constitutes substantial accordance with a change authorization. The department will be reviewing the project completion notice to the authorized change to determine if the project was completed in substantial accordance with the change authorization. The department agrees that a change in method of irrigation does not require a change authorization from the department. Unique circumstances will be addressed on a case-by-case basis depending on the facts.

Comment 50: One commenter states they have no specific feedback on NEW RULE 4 and appreciate the clarity that the rule provides.

Response 50: The department appreciates the feedback.

Comment 51: One commenter generally supports NEW RULE 4 on change verification as drafted under HB 441 but emphasizes the need for clarification, similar to NEW RULE 3. They stress that HB 441 was intended to align change authorizations with final decrees while avoiding re-litigation of completed authorizations. To achieve consistency across abstracts, they propose revised language limiting the department's evaluation to: (a) elements authorized for change, (b) authorization terms and conditions, (c) final decree elements under 85-2-402(9), MCA, and (d) elements modified or revoked under 85-2-313, 85-2-314, and 85-2-315, MCA.

Response 51: The department agrees additional clarification is appropriate. NEW RULE 4(1) is amended to clarify the extent to which elements of a change authorization are subject to verification.

Comment 52: The commenter asks if a change of use authorization is revoked under NEW RULE 5(4)(b), does the underlying water right revert to its original parameters, or does the applicant need a new authorization to restore it? What appears in the final decree? They also raise questions about situations where the department's determination of historic use is less than what the court decreed, or the project is only partially completed. They ask what happens to the "balance" of acreage or flow rate not acknowledged or used—how it is treated in the final decree—and note that only a court can determine abandonment of water rights, not the department.

Response 52: The comment illustrates the complexity of reconciling differences between change authorizations issued prior to the final decree of the underlying water right.

As a general rule, change authorizations for pre-July 1, 1973, water rights will be verified after a final decree is issued for the underlying water right. If a change authorization is revoked through verification, the underlying water right reverts to the version adjudicated in the final decree. Verification of a change authorization does not make a determination regarding remainder or abandonment of any portion of an existing water right adjudicated in a final decree but not completed through the change authorization.

Consistent with HB 441 (2025), the verification process will determine whether a water user completed an appropriation as authorized and to reconcile discrepancies between a final decree and a change authorization on a water right. If the department proposes to modify or revoke a change authorization, NEW RULES 5 and 6 provide the process for an appropriator to propose an alternative compliance plan or to request a show cause hearing. Ultimately, the hypothetical questions raised in the comment are more appropriately resolved through the verification and hearing process provided for by HB 441 (2025) and NEW RULES 2 through 6.

Comment 53: One commenter stated they have no specific feedback on NEW RULE 5 and appreciates the clarity provided in that rule.

Response 53: The department appreciates the feedback.

Comment 54: One commenter generally supports NEW RULE 5 on verification decisions as drafted under HB 441.

Response 54: The department appreciates the commenter's support for this rule.

Comment 55: For NEW RULE 5, one commenter suggests renaming the process to "certification" if the department will be issuing certificates. They also request allowing 60 to 90 days for appropriators to respond, especially for long-outstanding PCNs, as shorter deadlines would be unreasonable.

Response 55: HB 441 (2025) was enacted by the Montana Legislature to provide the process "to verify whether the appropriation was completed in substantial accordance with the terms" of a permit or change in appropriation right. The proposed definition of "verification" or "verify" is consistent with the terminology and process set forth in HB 441.

The department agrees that 30 days may not be adequate for an appropriator to evaluate and respond to the verification abstract. NEW RULE 5(3) and (4) are amended to allow a 60-day response period.

Comment 56: One commenter states they have no specific feedback on NEW RULE 6 and appreciate the clarity provided in that rule.

Response 56: The department appreciates the feedback.

Comment 57: One commenter states that NEW RULE 6 on hearings and final actions aligns with HB 441's intent to ensure due process in verification disputes, and they generally support the rule as drafted.

Response 57: The department appreciates the support.

Comment 58: One commenter specifically expressed support for the NEW RULE 6(1) and (2).

Response 58: The department appreciates the support.

Comment 59: One commenter supports NEW RULE 7(3), highlighting its role in determining consumptive value for leases. The commenter emphasizes the need for additional clarity regarding how consumptive use is calculated, recommends further clarification on crop consumptive use methodology (specifically which figures/columns are used), and supports allowing water right holders to use existing consumptive use analyses from recent change authorizations.

Response 59: The department agrees. New Rule 7(3)(a)(i) is amended to include the following text: "This methodology will use the priority date of the right being leased to determine the applicable county management factor."

Comment 60: One commenter supports NEW RULE 7(4), highlighting its role in balancing flexibility with the protection of other water right holders. They urge the department to interpret the law pragmatically and not to hamstring the intended flexibility with the same level of scrutiny applied to change applications. They stress that the law is not meant to apply the same scrutiny as change authorizations and warn against getting bogged down in detailed analyses, such as conveyance loss in ditch systems, which could undermine the statute's goal of expedited flexibility and efficiency.

Response 60: The department appreciates the support

Comment 61: One commenter supports NEW RULE 7(5), noting that allowing temporary storage in a lease makes the tool more effective than previous law. They support requirements for applicants to specify storage capacity and calculation methods and request further clarity on whether the department will require retirement of acres to offset storage capacity and/or evaporative losses—emphasizing the need for clear expectations.

Response 61: SB 178 limits the amount of water that can be temporarily leased to the consumptive use volume of the leased right. Accordingly, it is not necessary to determine evaporative losses from the temporary storage because the entire volume of the leased water can be consumed.

Comment 62: One commenter expressed support for the written notice requirement in NEW RULE 7(6).

Response 62: The department appreciates the support.

Comment 63: One commenter recommended that NEW RULE 7 require an applicant to prove the amount needed for the lessee's intended beneficial use to prevent waste. They propose that the rule use existing standards and require additional documentation from the applicant explaining how the volume was determined if the standard is exceeded.

Response 63: SB 178 (2025) provides flexibility to temporarily lease a water right for a short duration of time without requiring the water right owner to comply with the requirements for a change authorization pursuant to 85-2-402, MCA. SB 178 protects other water users by limiting

the amount of water that can be temporarily leased to the consumptive use of the leased right, requiring measurement and reporting, limiting the number of years a water right can be temporarily leased, limiting the number of days in a year the water right can be leased, prohibiting the use of water on the original place of use for the water right, and requiring an adverse effect plan. Although SB 178 requires that water may only be leased for a beneficial purpose and requires identification of the purpose and place of use, requiring the appropriator to prove the amount of water needed for the proposed beneficial use by the lessee imposes a greater burden than contemplated by SB 178 considering the above limitations on a temporary lease.

Comment 64: One commenter commended the department's efforts with NEW RULE 7 and suggested adding fuel receipts as evidence of water use (since some pumps use diesel/propane, not electricity). The commenter also recommends defining the time period for calculating historic water use, recommending a five-year period for consistency.

Response 64: The department agrees that there may be other records that document use of a pump. NEW RULE 7(2)(c) is amended to allow other records that document pump usage.

The department also agrees that the time-period used to calculate historical water use for an irrigation water right needs to be better defined. However, the department disagrees that use of the five-year lookback period for determining consumptive use is appropriate and instead proposes to use the priority date of the right being leased to determine the applicable county management factor. This methodology will ensure consistency with the time frames applicable for change applications. NEW RULE 7(3)(a)(i) is amended to include the following text: "This methodology will use the priority date of the right being leased to determine the applicable county management factor."

Comment 65: For NEW RULE 7, one commenter requests adding rule language to clarify what happens if more water is used than approved under a temporary lease, including the process for enforcement actions such as permit revocation or fines.

Response 65: Section 85-2-428(12), MCA provides the enforcement for violations of a short-term lease. Additional rulemaking is not necessary.

Comment 66: One commenter supports SB 178 and NEW RULE 7 for temporary water right leases, emphasizing its role in providing flexibility for water users and conserving fisheries habitats. They support limiting leases to the consumptive portion of the right, the department's methods for quickly and accurately determining that portion, and allowing use of recent consumptive use analyses. They endorse requirements for applicants to disclose and mitigate adverse effects "in aggregate," with clarification for what constitutes adequate mitigation and who holds the burden of proof in objections. They support the ability to temporarily add storage, with clarity needed on capacity and categorizations (consumptive/non-consumptive). Finally, they recommend the department provide criteria for evaluating the reasonableness of proposed lease volumes to prevent water waste, accepting volumes within standard usage as presumptively reasonable and requiring justification for outliers.

Response 66: SB 178 (2025) provides flexibility to temporarily lease a water right for a short duration of time without requiring the water right owner to comply with the requirements for a change authorization pursuant to 85-2-402, MCA. SB 178 protects other water users by limiting the amount of water that can be temporarily leased to the consumptive use of the leased right, requiring measurement and reporting, limiting the number of years a water right can be temporarily leased, limiting the number of days in a year the water right can be leased; prohibiting the use of water on the original place of use for the water right, and requiring an adverse effect plan. Although SB 178 requires that water may only be leased for a beneficial purpose and requires identification of the purpose and place of use, requiring the appropriator to prove the amount of water needed for the proposed beneficial use by the lessee imposes a greater burden than contemplated by SB 178 considering the above limitations on a temporary lease. For similar reasons, it is unnecessary to calculate consumed and non-consumed portions of temporary storage of leased water because the water being leased is already restricted to the consumptive use of the right. The restriction that only the consumed portion of a water right may be leased negates the need to monitor the extent to which stored water is consumed through evaporation.

With regard to the burden of proof, SB 178 places the initial burden of proof on the applicant to identify potential adverse effects and provide a description of planned actions to mitigate potential adverse effects that, in aggregate, demonstrate no adverse effect. Once an application has been authorized, SB 178 allows for objections. The objector has the burden to file a valid objection indicating that the rights of other appropriators would be adversely affected by the lease of the appropriation right. If the department determines the objection is valid, the lease is suspended and the owner of the water right being leased has the burden to prove by a preponderance of the evidence that the water rights of other appropriators will not be adversely affected by the lease. There is no need for rules to clarify the respective burdens of proof based on the clear language of SB 178.

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Rule Reviewer

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Approval

Amanda Kaster, Director

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REGISTER

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

NOTICE OF ADOPTION

MAR NOTICE NO. 2025-53.2

Summary

Amendment of ARM 37.85.206 and adoption of NEW RULES 1 through 3 pertaining to Pediatric Complex Care Assistant Services

Previous Notice(s) and Hearing Information

On June 27, 2025, the Department of Public Health and Human Services published MAR Notice No. 2025-53.1 pertaining to the public hearing on the proposed amendment and adoption of the above-stated rules in the 2025 Montana Administrative Register, Issue Number 12.

A hearing was held on July 18, 2025.

Final Rulemaking Action – Effective September 27, 2025

ADOPT AS PROPOSED

The agency has adopted the following rules as proposed:

NEW RULE 1 (37.40.1501) PEDIATRIC COMPLEX CARE ASSISTANT SERVICES, REQUIREMENTS

NEW RULE 2 (37.40.1502) PEDIATRIC COMPLEX CARE ASSISTANT SERVICES, PROVIDER REQUIREMENTS AND ENROLLMENT

NEW RULE 3 (37.40.1503) PEDIATRIC COMPLEX CARE ASSISTANT SERVICES, REIMBURSEMENT

AMEND AS PROPOSED

The agency has amended the following rule as proposed:

37.85.206 SERVICES PROVIDED

Statement of Reasons

The agency has considered the comments and testimony received. A summary of the comments received, and the agency's responses are as follows:

Comment #1: A commenter expressed support for the proposed addition of Pediatric Complex Care Assistant (PCCA) services, particularly for its potential to help fill the gap in service availability for medically complex children. In addition, the commenter expressed their hope that the department will engage stakeholders such as parents and families as this service is implemented and consider waiver implementation in the future.

Response #1: The department thanks the commenter for their support of the proposed rulemaking. The department will continue to work with stakeholders as the services are implemented.

Comment #2: A commenter expressed support for the proposed rulemaking, seeing it as a positive step toward comprehensive care for families with children who have complex medical needs, such as those on ventilators. The commenter also expressed hope that the department will expand these services to include a wider range of conditions in the future. The commenter expressed disappointment that Medicaid Buy-In for Children with Disabilities is not included as part of PCCA services.

Response #2: The department thanks the commenter for their support of the proposed rulemaking. The department will consider as part of potential future rule changes the commenter's suggestions, but notes that under current law PCCA services must be limited to those described under 37-2-603, MCA, and ARM 24.160.501.

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Rule Reviewer

Robert Lishman

Approval

Charles T. Brereton, Director

Department of Public Health and Human Services

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OFFICE OF THE GOVERNOR

VACANCIES AND APPOINTMENTS

SEPTEMBER 2025

UPCOMING VACANCIES – OCTOBER 2025

- State Emergency Response Commission
- State Historical Preservation Review Board
- State Rehabilitation Council
- Water and Wastewater Operators Advisory Council

https://governor.mt.gov/boards_appointments/

RECENT APPOINTMENTS – AUGUST 2025

- **Governor's Advisory Council on Aging**
  - Jerry Thex
    - 8/6/25 - 7/1/28
    - Predecessor: Reappointed
    - Qualification: Public member
  - Susan Lubke
    - 8/6/25 - 7/1/28
    - Predecessor: Reappointed
    - Qualification: Public member
  - Ryan Clark
    - 8/6/25 - 7/1/28
    - Predecessor: Al Ward
    - Qualification: Public member
- **Alternative Health Care Board**
  - Jacy O'Neill

        - 8/11/25 - 7/1/29
        - Predecessor: Reappointed
        - Qualification: Licensed acupuncturist
    - Gregory Rice
        - 8/11/25 - 7/1/27
        - Predecessor: Sandra Shepherd
        - Qualification: Physician whose practice includes obstetrics
    - Jeffrey Green
        - 8/11/25 - 7/1/28
        - Predecessor: Reappointed
        - Qualification: Naturopath
    - Holly Simonson
        - 8/11/25 - 7/1/29
        - Predecessor: Reappointed
        - Qualification: Public member
- **Community Choice School Commission**
    - Taylor Ramos
        - 8/29/25 - 9/1/27
        - Predecessor: Cathy Kincheloe
        - Qualification: Public member Confederated Salish and Kootenai Tribes (CSKT or Flathead Reservation) Fish and Wildlife Board
    - Onno Wieringa
        - 8/21/25 - 1/1/29
        - Predecessor: Alan Mikkelson
        - Qualification: Public representative
- **Drought and Water Supply Advisory Committee**
    - Kelsey Jencso
        - 8/21/25 - 1/2/29
        - Predecessor: New
        - Qualification: Climate office rep
- **Future Fisheries Review Panel**
    - David Cope
        - 8/28/25 - 7/1/27
        - Predecessor: Reappointed
        - Qualification: Licensed Angler
    - Jonathan Hanson
        - 7/28/25 - 7/1/27
        - Predecessor: Mike Newton
        - Qualification: Fisheries expert
    - Clint Peck
        - 8/28/25 - 7/1/27
        - Predecessor: Reappointed
        - Qualification: Conservation District representative
    - Ronald Pierce

        - 8/28/25 - 7/1/27
        - Predecessor: Reappointed
        - Qualification: Fisheries Restoration Professional
    - Avery Stevens
        - 8/28/25 - 7/1/27
        - Predecessor: Gabriella Thorsen
        - Qualification: High school student
    - Peter Skidmore
        - 8/28/25 - 7/1/27
        - Predecessor: Reappointed
        - Qualification: Public member - geomorphology/hydrology by board request
- **Montana Blockchain and Digital Innovation Task Force**
    - Arthur Bickle, III
        - 8/11/25 - 12/31/26
        - Predecessor: New
        - Qualification: Financial services institution representative
    - Randall Chesler
        - 8/11/25 - 12/31/26
        - Predecessor: New
        - Qualification: Experience in blockchain, cryptocurrency, financial technology, or digital innovation technology
    - Daniel Pittman
        - 8/11/25 - 12/31/26
        - Predecessor: New
        - Qualification: Experience in blockchain, cryptocurrency, financial technology, or digital innovation technology
    - Kevin Gilbertson
        - 8/11/25 - 12/31/26
        - Predecessor: New
        - Qualification: Public member
    - Julie Fredrickson
        - 8/11/25 - 12/31/26
        - Predecessor: New
        - Qualification: Public member
- **Montana Children's Trust Fund**
    - Brandi Loch
        - 8/21/25 - 12/31/27
        - Predecessor: Reappointed
        - Qualification: DPHHS representative
    - Charles Wellenstein
        - 8/21/25 - 12/31/26
        - Predecessor: Teresa Kennedy
        - Qualification: Public representative

    - Elora Van Middendorp
        - 8/21/25 - 12/31/26
        - Predecessor: Elizabeth Sibelrud
        - Qualification: Public representative
    - Carrie Etherington
        - 8/21/25 - 12/31/27
        - Predecessor: Jeri Delys
        - Qualification: Public representative
    - Justine Guthrie
        - 8/21/25 - 12/31/27
        - Predecessor: Deann Willcut
        - Qualification: OPI representative
- **Board of Medical Examiners**
    - Sara Monroe
        - 8/11/25 - 12/31/25
        - Predecessor: Connie Wethern
        - Qualification: Emergency Medical Community representative
- **Private Land Public Wildlife Advisory Council**
    - Chris Faber
        - 8/11/25 - 8/1/29
        - Predecessor: Raymond Rugg
        - Qualification: Outfitter
    - Everett Headley
        - 8/11/25 - 8/1/29
        - Predecessor: Reappointed
        - Qualification: Sportsperson
    - David McNany
        - 8/11/25 - 8/1/29
        - Predecessor: Rich Roth
        - Qualification: Landowner
    - Drew Steinberger
        - 8/11/25 - 8/1/29
        - Predecessor: Reappointed
        - Qualification: Sportsperson
    - Dale Tribby
        - 8/11/25 - 8/1/29
        - Predecessor: Reappointed
        - Qualification: Sportsperson
    - Craig Jourdonnais
        - 8/11/25 - 8/1/29
        - Predecessor: Reappointed
        - Qualification: Sportsperson
    - Rich Birdsell
        - 8/11/25 - 8/1/29

        - Predecessor: Ron Paschke
        - Qualification: Outfitter
- T**ourism Advisory Council**
    - Joan Kronebusch
        - 8/21/25 - 7/1/28
        - Predecessor: Reappointed
        - Qualification: Central Montana Region representative
    - Shelli Mann
        - 8/21/25 - 7/1/28
        - Predecessor: Sabre Moore
        - Qualification: Southwest Montana Region representative
- **Traumatic Brain Injury Advisory Council**
    - Ann Geiger
        - 8/4/25 - 1/1/26
        - Predecessor: Reappointed
        - Qualification: Advocate for Brain Injured
    - Tammy Kuusisto
        - 8/4/25 - 1/1/26
        - Predecessor: Patricia Spencer
        - Qualification: Advocate for Brain Injured
    - James Coulter
        - 8/4/25 - 1/1/27
        - Predecessor: Carla Hunsley
        - Qualification: TBI Survivor or family
    - Teresa McKeon
        - 8/4/25 - 1/1/27
        - Predecessor: Reappointed
        - Qualification: Advocate for Brain Injured
    - April Ildvad
        - 8/4/25 - 1/1/28
        - Predecessor: Theresa Anderson
        - Qualification: Advocate for Brain Injured
    - Maureen Ward
        - 8/4/25 - 1/1/28
        - Predecessor: Kenneth Brewington
        - Qualification: Injury control or prevention programs representative